NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
LITTERA SCRIPTA MANET
1985

FEDERAL REGISTER

Vol. 81 Monday,
No. 137 July 18, 2016

Pages 46567–46826

OFFICE OF THE FEDERAL REGISTER

1985

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.ofr.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge at *www.fdsys.gov*, a service of the U.S. Government Publishing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, 1 (January 2, 1994) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Publishing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, *gpocusthelp.com.*

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Publishing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 81 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Publishing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:	
Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**
General online information	**202–512–1530; 1–888–293–6498**
Single copies/back copies:	
Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800** **(Toll-Free)**

FEDERAL AGENCIES

Subscriptions:	
Assistance with Federal agency subscriptions:	
Email	*FRSubscriptions@nara.gov*
Phone	**202–741–6000**

Printed on recycled paper.

Contents

Federal Register

Vol. 81, No. 137

Monday, July 18, 2016

Editorial Note: In the printed version of the **Federal Register** Table of Contents for Friday, July 15, 2016, FR Doc. 2016-16756 was incorrectly listed under the Commission on Education for the Deaf. This document should have appeared under Drug Enforcement Agency.

Agricultural Marketing Service

RULES
Suspensions and Revisions of Incoming Size-Grade Requirements:
  Olives Grown in California, 46567–46570
PROPOSED RULES
Increased Assessment Rates:
  Almonds Grown in California, 46616–46619

Agriculture Department

See Agricultural Marketing Service
See Animal and Plant Health Inspection Service
See Food Safety and Inspection Service
See Forest Service
See Rural Business-Cooperative Service

Animal and Plant Health Inspection Service

PROPOSED RULES
Importation of Sheep, Goats, and Certain Other Ruminants, 46619–46639
NOTICES
International Trade Data System Test:
  Electronic Submission to the Automated Commercial Environment of Data Using the Partner Government Agency Message Set, 46640

Antitrust Division

NOTICES
Membership Changes under the National Cooperative Research and Production Act:
  Open Mobile Alliance, 46702

Bureau of Consumer Financial Protection

NOTICES
Supervisory Highlights:
  Summer Edition, 46652–46657

Centers for Disease Control and Prevention

NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 46675–46682
Statements of Organization, Functions, and Delegations of Authority, 46677

Children and Families Administration

NOTICES
Privacy Act; Systems of Records, 46682–46693

Civil Rights Commission

NOTICES
Meetings:
  Illinois Advisory Committee, 46642

Coast Guard

RULES
Drawbridge Operations:
  Black Warrior River, Eutaw, AL, 46599–46600
Safety Zones:
  Seafair Air Show Performance, 2016, Seattle, WA, 46601
Security Zones:
  Seattle's Seafair Fleet Week Moving Vessels, 2016, Puget Sound, WA, 46600–46601

Commerce Department

See Foreign-Trade Zones Board
See International Trade Administration
See National Oceanic and Atmospheric Administration

Comptroller of the Currency

NOTICES
Meetings:
  Mutual Savings Association Advisory Committee, 46765–46766

Defense Department

See Engineers Corps

NOTICES
Meetings:
  Government-Industry Advisory Panel, 46657–46659

Education Department

RULES
Equity Assistance Centers, 46808–46817
Final Priorities:
  Equity Assistance Centers, 46817–46819
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
  2017–2018 Free Application for Federal Student Aid, 46659–46661
Applications for New Awards:
  Equity Assistance Centers, 46820–46826

Employment and Training Administration

NOTICES
Worker Adjustment Assistance Eligibility; Amended Certifications:
  AK Steel Corp. Ashland Works, Ashland, KY, 46703–46704
  Day and Zimmermann, Inc., Parsons, KS, 46705
  LPL Financial, LLC, San Diego, CA, 46704
  Mitsubishi Motors North America, Inc., Normal, IL, 46711–46712
  PetroChoice, LLC, Chisholm, MN, 46703
Worker Adjustment Assistance Eligibility; Determinations, 46706–46711
Worker Adjustment Assistance Eligibility; Reconsiderations:
  Owens-Brockway Glass Container, Inc., Oakland, CA, 46704
Worker Adjustment Assistance; Amended Certifications:
  D Plus H USA Corp., Portland, OR, 46705
Worker Adjustment Assistance; Investigations, 46712–46713

Worker and Alternative Trade Adjustment Assistance Eligibility:
  Micro Power Electronics, Inc., Beaverton, OR, 46705–46706

Energy Department
See Federal Energy Regulatory Commission
RULES
Energy Conservation Program:
  Final Coverage Determination; Test Procedures for Miscellaneous Refrigeration Products, 46768–46805

Engineers Corps
NOTICES
Environmental Impact Statements; Availability, etc.:
  Lake Okeechobee Watershed Project Okeechobee, Highlands, Charlotte, Glades, Martin and St. Lucie Counties, FL, 46659

Environmental Protection Agency
RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
  California; Determination of Attainment of the 1-Hour Ozone National Ambient Air Quality Standard in the San Joaquin Valley Nonattainment Area, 46608–46612
  Louisiana; Permitting of Greenhouse Gases, 46606–46608
  Oregon; Extension of the Attainment Date for the Oakridge, OR, 24-hour PM2.5 Nonattainment Area, 46612–46613
NOTICES
Meetings:
  Work Group under the Auspices of the Chartered Science Advisory Board, 46672
Requests for Information:
  Oil and Natural Gas Sector; Emerging Technologies, 46670–46672

Federal Aviation Administration
NOTICES
Meetings:
  Aircraft Emergency Locator Transmitters, 46757
  RTCA Special Committee 225, Rechargeable Lithium Battery and Battery Systems, 46757–46758
Waivers of Aeronautical Land-Use Assurances, 46756–46757

Federal Deposit Insurance Corporation
NOTICES
Terminations of Receiverships:
  1st Regents Bank, Andover, MN, 46673
  First Peoples Bank, Port Saint Lucie, FL, 46673
  Plantation Federal Bank, Pawleys Island, SC, 46673

Federal Election Commission
NOTICES
Filing Dates:
  Pennsylvania Special Election in the 2nd Congressional District, 46673–46674

Federal Energy Regulatory Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 46664–46666
Combined Filings, 46662–46664, 46668–46669
Environmental Reviews:
  Texas Eastern Transmission, LP; Access South, Adair Southwest, and Lebanon Extension Projects, 46666–46667
Meetings:
  Wickiup Hydro Group, LLC; Schedule Change, 46666
Qualifying Conduit Hydropower Facilities:
  Sheridan, WY, 46669–46670
Records Governing Off-the-Record Communications, 46661–46662
Refund Effective Dates:
  Panda Liberty, LLC, 46664
  PJM Interconnection, LLC, 46664
Staff Attendances, 46667–46668

Federal Highway Administration
NOTICES
Funding Availability:
  Tribal Transportation Program Safety Funding, 46758–46764

Federal Maritime Commission
NOTICES
Meetings; Sunshine Act, 46674

Fish and Wildlife Service
NOTICES
Permits:
  Endangered Species, 46698–46699
  Marine Mammals, 46698

Food and Drug Administration
RULES
Food Additives Permitted for Direct Addition to Food for Human Consumption:
  Vitamin D2 and Vitamin D3, 46578–46582
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
  Clinical Laboratory Improvement Amendments Act Waiver Applications, 46693–46694
Meetings:
  Refurbishing, Reconditioning, Rebuilding, Remarketing, Remanufacturing, and Servicing of Medical Devices Performed by Third-Party Entities and Original Equipment Manufacturers; Workshop, 46694–46695

Food Safety and Inspection Service
RULES
Requirements for the Disposition of Non-Ambulatory Disabled Veal Calves, 46570–46577

Foreign-Trade Zones Board
NOTICES
Limited Production Activities; Authorizations:
  Gulfstream Aerospace Corp., Foreign-Trade Zone 168, Dallas/Fort Worth, TX, 46642–46643

Forest Service
NOTICES
New Fee Sites, 46640–46641

General Services Administration
NOTICES
Privacy Act; Systems of Records, 46674–46675

Health and Human Services Department
See Centers for Disease Control and Prevention

See Children and Families Administration
See Food and Drug Administration
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration
RULES
Nondiscrimination in Health Programs and Activities; Correction, 46613–46614

Homeland Security Department
See Coast Guard

Indian Affairs Bureau
NOTICES
Indian Gaming, 46700

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See Land Management Bureau
See Ocean Energy Management Bureau

Internal Revenue Service
RULES
Arbitrage Guidance for Tax-Exempt Bonds, 46582–46599

International Trade Administration
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
  Certain Oil Country Tubular Goods from the Republic of Korea, 46645–46647
  Stainless Steel Sheet and Strip From the People's Republic of China, 46643–46645
  Welded ASTM A–312 Stainless Steel Pipe from the Republic of Korea, 46647–46649
NAFTA Panel Reviews, 46647

International Trade Commission
NOTICES
Complaints:
  Certain Quartz Slabs, 46701–46702
Meetings; Sunshine Act, 46700–46701

Justice Department
See Antitrust Division
NOTICES
Proposed Consent Decrees under the Clean Water Act, 46702–46703

Labor Department
See Employment and Training Administration
NOTICES
Determinations of Submission under the United States-Colombia Free Trade Agreement, 46713–46714

Land Management Bureau
NOTICES
Plats of Surveys:
  Oregon/Washington, 46700

Legal Services Corporation
NOTICES
Meetings; Sunshine Act, 46714–46715

National Credit Union Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 46715
Meetings; Sunshine Act, 46715

National Highway Traffic Safety Administration
NOTICES
Petitions for Decision of Inconsequential Noncompliance; Approvals:
  Continental Tire the Americas, LLC, 46764–46765

National Institutes of Health
NOTICES
Meetings:
  Kidney Interagency Coordinating Committee, 46696–46697
  National Eye Institute, 46695–46696
  National Institute of Allergy and Infectious Diseases, 46697
Requests for Information:
  Technologies Used to Identify Substances with the Potential to Cause Acute Systemic Toxicity, 46696

National Oceanic and Atmospheric Administration
RULES
Fisheries of the Northeastern United States; Northeast Multispecies Fishery:
  Georges Bank Cod Trimester Total Allowable Catch Area Closure for the Common Pool Fishery, 46615
International Fisheries:
  Pacific Tuna Fisheries; 2016 Bigeye Tuna Longline Fishery Closure in the Eastern Pacific Ocean, 46614–46615
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 46650–46651
Meetings:
  Gulf of Mexico Fishery Management Council, 46651–46652
  New England Fishery Management Council, 46650, 46652
  Pacific Fishery Management Council; Webinar, 46651
  Western Pacific Fishery Management Council, 46649–46650

National Science Foundation
NOTICES
Permit Applications:
  Antarctic Conservation Act, 46715–46716

Nuclear Regulatory Commission
NOTICES
License Renewals:
  Board of Regents of the University of California, Irvine Nuclear Reactor Facility, 46716–46718
Meetings:
  Advisory Committee on the Medical Uses of Isotopes, 46716

Ocean Energy Management Bureau
RULES
Regulatory Guidance:
  Lessees and Operators of Federal Oil and Gas, and Sulfur Leases, and Holders of Pipeline Right-of-Way and Right-of-Use and Easement Grants in the Outer Continental Shelf—Requiring Additional Security, 46599

Postal Regulatory Commission
NOTICES
Market Test of Experimental Product-Customized Delivery, 46718–46719

New Postal Products, 46718

Rural Business-Cooperative Service

NOTICES

Meetings:
  Rural Business Lending National Stakeholder Forum 2016—Business and Industry Guaranteed Loan Program, 46641–46642

Securities and Exchange Commission

NOTICES

Meetings:
  Equity Market Structure Advisory Committee, 46744–46745
Self-Regulatory Organizations; Proposed Rule Changes:
  Bats BYX Exchange, Inc., 46745–46746
  Bats BZX Exchange, Inc., 46725–46728, 46738–46739, 46747–46749
  Bats EDGX Exchange, Inc., 46719–46721
  C2 Options Exchange, Inc., 46746–46747
  Chicago Board Options Exchange, Inc., 46721–46724
  International Securities Exchange, LLC, 46728–46730
  Investors Exchange, LLC, 46730–46731
  Miami International Securities Exchange, LLC, 46734–46737
  NASDAQ BX, Inc., 46739–46744
  NASDAQ PHLX, LLC, 46731–46734
  NASDAQ Stock Market, LLC, 46724–46725
  NYSE MKT, LLC, 46749–46751

Small Business Administration

NOTICES

Disaster Declarations:
  Connecticut, 46751–46752
  Oklahoma, 46752
  Texas, 46752

Social Security Administration

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 46752–46754

Substance Abuse and Mental Health Services Administration

NOTICES

Meetings:
  Center for Mental Health Services National Advisory Council, 46697
  Center for Substance Abuse Prevention National Advisory Council, 46698

Trade Representative, Office of United States

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
  African Growth and Opportunity Act; Annual Review of Country Eligibility for Benefits under AGOA in Calendar Year 2017, 46755–46756

Transportation Department

See Federal Aviation Administration
See Federal Highway Administration
See National Highway Traffic Safety Administration

Treasury Department

See Comptroller of the Currency
See Internal Revenue Service

United States Institute of Peace

NOTICES

Meetings, 46766

Veterans Affairs Department

RULES

Hospital Care and Medical Services for Camp Lejeune Veterans, 46603–46606
Prescriptions in Alaska and U.S. Territories and Possessions, 46601–46602

Separate Parts In This Issue

Part II

Energy Department, 46768–46805

Part III

Education Department, 46808–46826

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
932....................................46567
Proposed Rules:
981....................................46616

9 CFR
309....................................46570
Proposed Rules:
93......................................46619
94......................................46619
95......................................46619
96......................................46619
98......................................46619

10 CFR
429....................................46768
430....................................46768

21 CFR
172....................................46578

26 CFR
1..46582

30 CFR
550....................................46599
556....................................46599

33 CFR
117....................................46599
165 (2 documents) 46600, 46601

34 CFR
Ch. II.................................46817
270....................................46808
271....................................46808
272....................................46808

38 CFR
17 (2 documents) 46601, 46603

40 CFR
52 (3 documents) 46606, 46608, 46612

45 CFR
92......................................46613

50 CFR
300....................................46614
648....................................46615

Rules and Regulations

Federal Register
Vol. 81, No. 137
Monday, July 18, 2016

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 932

[Docket No. AMS–SC–16–0031; SC16–932–1 IR]

Olives Grown in California; Suspension and Revision of Incoming Size-Grade Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This rule implements a recommendation from the California Olive Committee (Committee) to suspend the incoming size-grade authority under the California olive marketing order (order), which regulates the handling of olives in California. The rule also makes conforming changes to the corresponding size-grade requirements in the order's rules and regulations to adapt them to the suspension. The Committee locally administers the order and is comprised of California olive producers and handlers operating within the production area. The suspension and revisions are intended to allow the Committee time to develop new incoming size-grade authority that will reflect currently-available technology and meet the industry's future needs.

DATES: Effective July 19, 2016; comments received by September 16, 2016 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or Internet: *http://www.regulations.gov.* All comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov.* All comments submitted in response to this rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Peter Sommers, Marketing Specialist, or Jeffrey Smutny, Regional Director, California Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906; or Email: *PeterR.Sommers@ams.usda.gov* or *Jeffrey.Smutny@ams.usda.gov.*

Small businesses may request information on complying with this regulation by contacting Antoinette Carter, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Antoinette.Carter@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement 148 and Order No. 932, both as amended (7 CFR part 932), regulating the handling of olives grown in California, hereinafter referred to as the "order." The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (USDA) is issuing this interim rule in conformance with Executive Orders 12866, 13563, and 13175.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule suspends the incoming size-grade authority of the marketing order and revises the corresponding size-grade requirements in the order's rules and regulations. The current authority establishes a range of size designations and average count ranges per pound into which the varieties of olives must fall in order to be size-certified by the Federal or Federal-State Inspection Service. The incoming size-grade regulations do not reflect the size-grading capabilities of newer technology available to California olive handlers. Currently, the order mandates that sizing of olives be based on count ranges and average counts per pound, while the new technology sizes olives using their associated mass and volume. Thus, the current size-grade requirements and the sizing capabilities of the new technology are incompatible. This recommendation was passed unanimously by the Committee at a meeting on February 17, 2016.

The incoming regulations include a requirement for olives to be weighed upon receipt. This regulation is not being suspended, since handlers need to weigh the bins of incoming olives so that each producer has a record of their total deliveries to handlers. Thus, this relaxation will require continued weighing of olives but will suspend the requirement that olives be size-graded upon receipt.

By relaxing the sizing requirement, handlers will be able to voluntarily size olives to make accurate payments to their producers on their total deliveries, ensure that the olives they place into their storage tanks are uniform in size for efficient processing, and utilize any olive size for limited-use styles.

Even though there will be no incoming size requirements, handlers will continue to be bound by mandatory inspection and certification of outgoing size requirements listed in the U.S. Standards for Grade of Canned Ripe Olives (7 CFR part 52). Outgoing inspection, based on weight and count, will continue to be used to verify compliance with the U.S. Standards of the previously sorted olives.

Limited-use styles include olives that are no longer in whole form and are sliced, segmented (wedged), chopped, halved, and broken pitted styles. When incoming regulation is in effect, the Committee has authority to identify size-grade categories of olives that are eligible to be used in limited-use styles. With the suspension of the incoming size-grade requirement, handlers will be able to use any size olive for limited-use styles. Therefore, the suspension of incoming size-grade regulation relaxes the requirements for limited-use.

This suspension is necessary in order to provide the industry, and their USDA partners, the opportunity to work on new size-grading requirements that will address and work in tandem with new sizing technology.

This rule suspends language in § 932.51 related to size-grade requirements. In addition, this rule revises language in § 932.151, where "weight" is used to replace "size-grading," and removes certain references to the "inspection service" or replaces the term with "Committee." With this change, while incoming regulation is suspended, the Committee will receive information directly from handlers on incoming olive receipts from growers, rather than through the Inspection Service.

Section 932.51 of the order specifies that incoming olives be weighed and size-graded under the supervision of the Federal or Federal-State Inspection Service. The size designations set forth are those found in the U.S. Standards for Grade of Canned Ripe Olives (7 CFR part 52) and include additional size designations specified in § 932.51.

Section 932.51 also establishes authority for handlers to use limited-use olives. As previously stated, once the suspension is in effect, handlers will be able to use any olives in the production of limited-use styles.

As noted above, weight certification will still be required under § 932.51 for all olives received by handlers, so that producers will be able to confirm their total deliveries to handlers.

Section 932.151 of the order's rules and regulations specifies the requirements for incoming olives, which are—weighing, size-grading, and certifying of canning olives and non-canning olives (culls).

The olive industry has been involved in a technological shift since 2012. In addition to electronic reporting technology, which eliminates burdensome paper reports, the industry has begun moving toward more cost-effective and accurate sizing technology. New technology sorts olives by measuring the volume and mass of each olive directly, rather than by count per pound and approximate count per pound. As technology changes and improves, better methods of classifying olives by size need to be in place. With the technology now available, handlers report a 30-percent reduction in labor costs. Those reduced costs contribute to making California olive handlers more competitive with other olive-processing countries.

Since new technology represents a significant departure from existing size-grading techniques, the Committee believes, with industry support, that the correct course of action is to suspend the incoming size-grade requirements. This will give the industry, working with their USDA partners, the time to develop size-grade requirements that reflect changes in technology.

This suspension requires a modification of two Committee forms, Weight and Grade Report (COC–3c) and the Report of Limited and Undersize and Cull Olives Inspection and Disposition (COC–5). Both are approved for use under OMB No. 0581–0178, Generic Vegetables and Specialty Crops, and used by the Federal or Federal-State Inspection Service to certify sizes of incoming olives and limited-use style sizes. In addition, the COC–3c is specified as being an inspection certificate. Since this rule suspends the incoming size-grading requirements, there is no need for the inspection service to certify sizes of olives or issue an inspection certificate.

Following the publication of this rule, the COC–3c will be used by handlers to report to the Committee the incoming weights and volume size distribution of the sample. The COC–5 will be used by handlers to certify limited, undersize, and cull olive disposition.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are two handlers subject to regulation under the marketing order and approximately 1,000 olive producers in the production area. Small agricultural service firms are defined by the Small Business Administration (SBA) as those having annual receipts of less than $7,500,000, and small agricultural producers are defined as those having annual receipts of less than $750,000 (13 CFR 121.201).

Based upon information from the Committee and the National Agricultural Statistics Service (NASS), the average producer price for the 2013–14 crop year (the last year information was available) was $1,150 per ton of canning-size olives and $385 per ton for limited-use size olives. The total assessable volume was 85,668 tons. Canning sizes represented 88 percent of the assessable olive volume, while limited-use sizes represented 12 percent of the assessable olive volume.

Based on production, producer prices, and the total number of California olive producers, the average annual producer revenue is less than $750,000. Thus, the majority of olive producers may be classified as small entities. Both of the handlers may be classified as large entities.

This relaxation is expected to positively impact both handlers and producers. Handlers will be able to use new technology as it becomes available to voluntarily size-grade incoming fruit more accurately, helping them be more competitive. Producers will benefit from more-accurate sizing, potentially resulting in higher handler payments to producers. This relaxation will also provide the industry with the opportunity to develop new mandatory sizing requirements conducive to alternative sizing capabilities.

The Committee's Incoming Inspection Workgroup initially discussed this recommendation and its alternatives on January 25, 2016, as did the Inspection Subcommittee prior to the Committee meeting on February 17, 2016. The Committee also considered alternatives to this action, but concluded that the correct course of action would be to recommend suspension. For all the reasons cited herein, the alternative to continue mandatory size-grading was not considered viable, would not give handlers the flexibility they need, and was rejected.

This rule suspends the size-grade requirements of the incoming regulations in § 932.51, beginning with the 2016–2017 crop year. It also revises the rules and regulations in § 932.151 allowing for the continued certification of olives by weight and replaces references to the inspection service with the Committee. In addition, minor modifications are being made to the COC 3 and COC 5 forms.

The suspension and revisions are intended to allow the Committee time to develop new requirements that address advancing technology and equipment; help reduce handling costs, keeping the California industry competitive with other olive-processing countries; and increase handler efficiency.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the order's information collection requirements are approved by the Office of Management and Budget (OMB) under OMB No. 0581–0178 (Generic Vegetables and Specialty Crops). Minor changes to those requirements are necessary as a result of this action.

AMS has submitted a request to the Office of Management and Budget (OMB) to make minor changes to forms COC–3c and COC–5. The four changes to form COC–3c include removing the block entitled "Cert No."; deleting the words "inspection certificate" from the block entitled "California Olive Committee"; deleting the statement "This lot was weighed, sampled, and size graded under the direct supervision of the Federal-State Inspection Program" and deleting the signature and date lines associated with that statement; and lastly, removing the words "OFFICIAL INSPECTION CERTIFICATE" and adding the words "Handler Use Only".

The changes to form COC–5 include changing the words "(5) REQUEST FOR INSPECTION" to "(5) DISPOSITION" and removing the words "(7) INSPECTION CERTIFICATION: The olives inspected conform to the information listed above" and deleting the space for the inspector's signature and the date. Additionally, changes to the form's instructions include removing the words "to be inspected" from the GENERAL instruction, and deleting the instruction for ITEM (7).

AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

In addition, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule. Furthermore, the Committee's meeting was widely publicized throughout the California olive industry, and all interested persons were invited to attend the meeting and encouraged to participate in Committee deliberations. Like all Committee and subcommittee meetings, the January 25, 2016, and February 17, 2016, meetings were public meetings, and all entities, both large and small, were able to express their views on this issue.

Also, the Committee has a number of appointed subcommittees that review specific issues and make recommendations to the Committee. The Committee's Inspection Subcommittee met on February 17, 2016, prior to the full Committee meeting on that same day, and discussed this issue in detail. That meeting was the result of a special working group meeting on January 25, 2016. The working group was tasked with reviewing the inspection protocol and related issues, and reporting their findings and recommendations to the Inspection Subcommittee. All three meetings were public meetings, and both large and small entities were encouraged to participate and express their views. Finally, interested persons are invited to submit comments on this interim rule, including the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/rules-regulations/moa/small-businesses.* Any questions about the compliance guide should be sent to Antoinette Carter at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

This rule invites comments on the suspension and revision of incoming size-grade requirements under the California olive marketing order. Any comments received will be considered prior to the finalization of this rule.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that this interim rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 60 days after publication in the **Federal Register** because: the Committee unanimously recommended these changes at a public meeting; this is a relaxation of the marketing order requirements; and this rule provides a 30-day comment period. Any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 932

Marketing agreements, Olives, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 932 is amended as follows:

PART 932—OLIVES GROWN IN CALIFORNIA

■ 1. The authority citation for 7 CFR part 932 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 932.51 [Amended]

■ 2. In § 932.51, suspend indefinitely paragraphs (a)(1)(ii) through (a)(5).

■ 3. Amend § 932.151 by revising paragraphs (a), (b), (c), (d), (e)(1), (2), and (4), and (f)(1) to read as follows:

§ 932.151 Incoming regulations.

(a) *Inspection stations.* Natural condition olives shall be weighed only at inspection stations which shall be a plant of a handler or other place having facilities for weighing such olives: *Provided,* That such location and facilities are satisfactory to the committee: *Provided further,* That upon prior application to, and approval by, the committee, a handler may receive olives at an inspection station other than the one where the lot was weighed.

(b) *Lot identification.* (1) Immediately upon receipt of each lot of natural condition olives, the handler shall complete Form COC 3A or 3C, weight and grade report or such other lot identification form as may be approved by the committee, which shall contain at least the following:

(i) Lot number;

(ii) Date;

(iii) Variety; and

(iv) Number and type containers.

(2) The handler shall maintain identity of such lot of olives with its corresponding lot weight and grade report.

(c) *Weighing.* Each lot of natural condition olives shall be separately weighed to determine the net weight of olives.

(d) *Handler incoming responsibility*—(1) *General.* The handler is responsible for the proper performance of all actions connected with the identification of lots of olives, the weighing of boxes or bins, the taking of samples, and the furnishing of necessary personnel for the carrying out of such actions.

(2) *Certification.* (i) For each lot of olives that are weighed, the handler

shall complete Form COC–3A or 3C, weight and grade report, which shall contain at least the following:

(A) Name of handler;
(B) Name of producer;
(C) County of production;
(D) Applicable lot number;
(E) Weight certificate number;
(F) Net weight;
(G) Number and type of containers;
(H) Date received;
(I) Time received; and
(J) Weight of sample.

(ii) The completed Form COC–3A or 3C shall be furnished to the committee, which shall certify thereon that the lot was weighed as required by § 932.51 if in accordance with the facts.

(e) *Disposition of noncanning olives*—(1)(i) *Notification and inspection of noncanning olives.* Prior to disposition of noncanning olives the handler shall complete Form COC–5, report of limited and undersize and cull olives inspection and disposition, which shall contain the following:

(A) Type and number of containers;
(B) Type of olives (undersize or culls);
(C) Net weight;
(D) Variety;
(E) Outlet (green olives, olive oil, etc.); and
(F) Consignee.

(ii) Before disposition of such olives, the completed Form COC–5 shall be furnished to the committee.

(2) *Control and surveillance.* Noncanning olives that have been reported on Form COC–5 shall, unless such olives are disposed of immediately after receipt, be identified by fixing to each bin or pallet of boxes a COC control card which may be obtained from the committee. Such olives shall be kept separate and apart from other olives in the handler's possession and shall be disposed of only in the outlet shown on Form COC–5.

* * * * *

(4) *Olives not subject to incoming regulation requirements.* Except as otherwise prescribed in § 932.51(b), any lot of olives to be used solely in the production of green olives or canned ripe olives of the "tree ripened" type shall not be subject to incoming regulation: *Provided,* That the applicable requirements of § 932.51(b) are met and the handler notifies the committee, in writing, that such lot is to be so used. Notice may be given by writing on the weight certificate "Lot to be used solely for use in the production of green olives or tree ripened olives" and a copy of such weight certificate given to the committee.

(f) *Partially exempted lots.* (1) Pursuant to § 932.55, any handler may process any lot of natural condition olives for use in the production of packaged olives which has not first been weighed as an individual lot as required by § 932.51(a)(1)(i) but was combined with any other lot or lots of natural condition olives, only if:

(i) All the olives in the combined lot are delivered to the handler in the same day;

(ii) The total net weight of the olives delivered to the handler by any person in such day does not exceed 500 pounds;

(iii) Each such person had authorized combination of his lot with other lots; and

(iv) The combined lot of the natural condition olives is weighed as required by § 932.51(a)(1)(i) prior to processing the olives.

* * * * *

Dated: July 11, 2016.

Elanor Starmer,

Administrator, Agricultural Marketing Service.

[FR Doc. 2016–16704 Filed 7–15–16; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 309

[Docket No. FSIS–2014–0020]

RIN 0583–AD54

Requirements for the Disposition of Non-Ambulatory Disabled Veal Calves

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending its regulations on ante-mortem inspection to remove a provision that permits establishments to set apart and hold for treatment veal calves that are unable to rise from a recumbent position and walk because they are tired or cold. FSIS is also amending its regulations to require all non-ambulatory disabled cattle to be *promptly* disposed of after they have been condemned. In addition, after review and consideration of comments to the proposed rule, FSIS is amending the regulations by removing a provision that requires ante-mortem inspection to be conducted in pens. This final rule makes clear that FSIS inspectors have the authority to conduct ante-mortem inspection and condemn non-ambulatory disabled veal calves the moment they arrive on the premises of the establishment. These amendments will improve compliance with the Humane Methods of Slaughter Act of 1978 (HMSA) and the humane slaughter implementing regulations. The amendments will also improve the Agency's inspection efficiency by eliminating the time that FSIS inspectors spend re-inspecting non-ambulatory disabled veal calves.

DATES: *Effective Date:* September 16, 2016.

FOR FURTHER INFORMATION CONTACT: Daniel L. Engeljohn, Ph. D., Assistant Administrator, Office of Policy and Program Development, Food Safety and Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, DC 20250–3700; Telephone (202) 205–0495; Fax (202) 720–2025.

SUPPLEMENTARY INFORMATION:

Background

Under 9 CFR 309.3(e), non-ambulatory disabled cattle that are offered for slaughter, including those that have become non-ambulatory disabled after passing ante-mortem inspection, must be condemned and disposed of properly. However, under 9 CFR 309.13(b), non-ambulatory disabled veal calves that are able to rise from a recumbent position and walk after they have been set aside and warmed or rested, and that are found to be otherwise free from disease, may be slaughtered for human consumption under appropriate FSIS supervision.

On May 13, 2015, FSIS published the proposed rule "Requirements for the Disposition of Non-Ambulatory Disabled Veal Calves" (80 FR 27269). FSIS proposed to amend 9 CFR 309.13(b) to remove the set-aside provision. FSIS also proposed to amend 9 CFR 309.3(e) to require all condemned cattle to be *promptly* disposed of in accordance with 9 CFR 309.13. Under the proposed rule, all non-ambulatory disabled cattle would be condemned and promptly euthanized.

As FSIS explained in the proposed rule, in November 2009, the Humane Society of the United States (HSUS) filed a petition requesting that FSIS amend 9 CFR 309.13(b) to remove the provision that allows veal calves that are non-ambulatory disabled because they are tired or cold to be set aside for treatment and re-inspected at a later time (the set-aside provision).[1] The petition stated that the set-aside provision is inconsistent with the language and intent of the HMSA because it fails to ensure that the handling of livestock in connection with slaughter be carried out only by humane methods (see 7 U.S.C. 1902). The petition asserted that the set-aside provision creates an incentive for establishments to use inhumane methods to get non-ambulatory disabled veal calves to rise for re-inspection. Furthermore, the petition stated that removing the set-aside provision would eliminate the uncertainty of determining whether veal calves are non-ambulatory disabled because they are tired or cold or because they are injured or sick, thereby ensuring the appropriate disposition of these calves. Finally, the petition stated that eliminating the time that FSIS inspectors spend re-inspecting calves would improve inspection efficiency (80 FR 27269).

---

[1] The petition is available on the FSIS Web site at *http://www.fsis.usda.gov/wps/wcm/connect/9ddd8b7c-983f-4cb1-83e8-9e545e9345d0/Petition_HSUS_Humane_Handling.pdf?MOD=AJPERES.*

The petition referred to video footage from an HSUS undercover investigation at an official veal slaughter establishment conducted in August and September 2009. The video footage documented incidents in which establishment personnel attempted to force non-ambulatory disabled veal calves to rise by kicking, prodding, and dragging the calves to their feet. After release of this video footage, FSIS conducted its own investigation that found the establishment repeatedly failed to handle non-ambulatory disabled veal calves in a humane manner. FSIS immediately shut down the establishment, and it was only allowed to re-open under a new name and different ownership after reaching an agreement with FSIS that its facilities would be audited by an outside firm on a regular basis, and that employees would receive special training on humane handling of animals. In addition, Secretary of Agriculture Thomas Vilsack requested that the USDA's Office of Inspector General conduct a criminal investigation. While no Federal charges were filed, two establishment officials were criminally prosecuted by the State of Vermont.

After reviewing the findings of the FSIS investigation and the issues raised in the petition, the Agency tentatively granted the HSUS petition but determined it would be useful to solicit public input on the issues raised in the petition before making a final decision. On February 7, 2011, FSIS published a document in the **Federal Register** requesting public comments on the HSUS petition (76 FR 6572). FSIS received approximately 74,200 comments in response to the **Federal Register** document (see 80 FR 27269 for a more detailed discussion of the comments and FSIS's responses). On March 13, 2013, FSIS granted the HSUS petition and announced that the Agency would begin rulemaking when resources allowed.

In January 2014, FSIS conducted another investigation based on video footage captured by an HSUS undercover investigation at a second veal slaughter establishment. This video footage showed two humane handling violations committed by the establishment, including an employee dragging and rolling a non-ambulatory disabled veal calf into a holding pen. The subsequent FSIS investigation found that, while the establishment had a comprehensive systematic approach to its humane handling program, the establishment failed to implement effective humane handling methods, resulting in egregious violations (see 80 FR 27270 for more details on the investigation).

As explained in the proposed rule, published May 13, 2015, prohibiting the slaughter of all non-ambulatory veal calves will improve compliance with the HMSA and the humane slaughter implementing regulations (80 FR 27269). FSIS's 2009 and 2014 investigations of incidents of inhumane handling at official veal slaughter establishments demonstrate that the set-aside provision may create an incentive for establishments to inhumanely force non-ambulatory disabled veal calves to rise. The set-aside provision may also provide an incentive for livestock producers and establishments to send weakened veal calves to slaughter in the hope that the veal calves are able to sufficiently recover in time to pass ante-mortem inspection. Sending such weakened veal calves to slaughter increases the chances that they will go down and be subjected to conditions that are inhumane (80 FR 27271). In addition, FSIS inspectors may not always be able to distinguish between a veal calf that is non-ambulatory disabled because it is tired or cold from a veal calf that is injured or sick. Thus, allowing re-inspection may encourage establishments to hold ill or injured veal calves in an attempt to allow them to recover and pass re-inspection before collapsing.

FSIS is also concerned about the treatment of veal calves during extended hold times. For example, non-compliance records (NRs) from 2012 to 2015 included 33 instances of failing to provide veal calves with access to water.

Finally, removing the set-aside provision will also improve the Agency's inspection efficiency by eliminating the time that FSIS inspectors spend re-inspecting non-ambulatory disabled veal calves.

Final Rule

After consideration of all of the comments, FSIS is finalizing the provisions of the May 13, 2015 proposed rule with one change. The final rule removes a provision in the Federal meat inspection regulations that requires all ante-mortem inspections to be conducted in pens (9 CFR 309.1(b)).

Comments discussed below submitted in response to the proposed rule showed confusion about exactly when animals are "offered for slaughter," and when inspectors may conduct ante-mortem inspection. Some commenters stated that establishments could exploit a loophole in the regulations by setting aside non-ambulatory disabled veal calves to rest and recover, and offer the calves for ante-mortem inspection at a later time.

Currently, FSIS inspectors are instructed to conduct ante-mortem inspection on transportation vehicles if the animals cannot be unloaded for any reason (see FSIS Directive 6,900.2, Humane Handling and Slaughter of Livestock). To harmonize the regulations with this established policy, FSIS is amending the regulations by removing a provision in 9 CFR 309.1(b) that requires ante-mortem inspection to be performed "in pens".

FSIS is amending these regulations under 21 U.S.C. 621, which gives FSIS the authority to adopt regulations for the efficient administration of the Federal Meat Inspection Act (FMIA). The amendments in this rule are intended to facilitate more effective implementation of ante-mortem inspection pursuant to 21 U.S.C. 603(a) and of the humane handling requirements established pursuant to 21 U.S.C. 603(b).

Comments and Responses

FSIS received approximately 42,054 comments from animal welfare write-in campaigns that supported the proposed rule. FSIS also received 35 comments from animal welfare organizations, members of Congress, and private citizens that also supported the proposed rule. FSIS received approximately 20 comments from organizations representing meat processors, cattle producers, dairy producers, farm bureaus, and private citizens that opposed the proposed rule.

Comment: Several farm bureaus stated that the current regulations adequately protect non-ambulatory disabled veal calves from inhumane treatment. These commenters noted that FSIS has trained personnel in establishments at all times to ensure that calves are humanely handled, and veal producers have too big of a financial incentive to violate the HMSA.

Response: FSIS is amending the regulations to improve compliance with the HMSA and improve the Agency's inspection efficiency by eliminating the time that FSIS inspectors spend re-inspecting non-ambulatory disabled veal calves.

As explained in the Background section, FSIS conducted investigations in 2009 and 2014 in response to undercover videos taken by HSUS that showed establishments using force to get non-ambulatory disabled veal calves to rise for inspection. Based on the findings of these investigations, FSIS concluded that the set-aside provision may create an incentive for establishments to inhumanely force non-ambulatory disabled veal calves to rise.

Furthermore, the 2014 HSUS video showed that humane handling violations can occur outside the view of FSIS inspectors. FSIS inspectors are unable to continuously monitor non-ambulatory veal calves that have been set apart to warm and rest because they must perform other food safety inspection-related activities between the time that the calves are set apart and the time of inspection after the resting period.

Comment: An industry trade association and veal processor stated that condemnation and prompt disposal of non-ambulatory disabled veal calves would waste potentially healthy animals that can go into the food supply.

Response: The carcasses, parts thereof, meat, or meat food products of non-ambulatory disabled veal calves will be considered unfit for human food and thus adulterated pursuant to 21 U.S.C. 601(m)(3). However, the carcasses of condemned veal calves may have other, inedible-product, uses (*e.g.*, through rendering).

In addition, the estimated cost of the final rule will have a minimal financial impact on the veal industry. Market value estimates for slaughtered veal calves based on CY2015 data reported by the U.S. Department of Agriculture, Agricultural Marketing Service (AMS), were between $264.0 million and $435.8 million. The expected first-year total cost estimate to the U.S. veal industry that would be associated with this rule ranges between $0.374 million and $1.206 million. Thus, the value lost to the U.S. veal industry ranges between 0.14% and 0.28% of the total veal value in a year.

The minimal financial impact to the U.S. veal industry is outweighed by the benefits cited in this rule, including increased compliance with the HMSA and improved inspection efficiency. FSIS predicts that this rule will save the Agency between 180 inspection hours (minimum) and 297 inspection hours (maximum) in total each year. The saved inspection time will allow FSIS personnel to conduct other inspection activities.

Comment: One veal processor stated that the formula fed veal industry has voluntarily undertaken measures in the past eight years to improve conditions for the production and care of veal calves, rendering moot some of the reasons cited for the rule.

Response: FSIS's investigations in 2009 and 2014 and non-compliance records from 2012 to 2015 demonstrate that voluntary measures undertaken by the industry have not adequately prevented the inhumane treatment of non-ambulatory disabled veal calves. Specifically, FSIS has determined that establishments may have an incentive to force non-ambulatory disabled veal calves that have been set aside pursuant to 9 CFR 309.13(b) to rise. Therefore, the Agency has determined that a change in the regulations is needed to remove the set-aside provision and ensure compliance with humane handling requirements at official establishments.

Comment: Several industry trade associations stated that FSIS's 2009 and 2014 investigations in response to HSUS' undercover video footage did not present evidence of a systemic problem of inhumane handling of non-ambulatory disabled veal calves. These commenters stated that FSIS has identified only two incidents of inhumane handling of non-ambulatory disabled veal calves in the 37 years it has enforced the HMSA. In addition, the commenters stated that only two out of 364 suspension actions taken by the Agency in the six-year window involve establishment employees forcing non-ambulatory disabled veal calves to rise.

The same commenters also stated that the lack of non-compliance records (NRs) citing non-ambulatory disabled veal calves suggests the calves are treated with care. These commenters noted that the NRs cited in the proposed rule do not record establishment personnel forcing non-ambulatory disabled veal calves to rise.

A beef producer advocacy group questioned whether FSIS has sufficient scientific evidence or expert testimony to support the Agency's claim that setting aside downed veal calves results in inhumane treatment. The comment also stated that FSIS failed to perform a comprehensive review of the peer-reviewed scientific literature or research regarding factors that lead to downed veal calves.

Response: FSIS disagrees that the number of suspension actions and NRs indicates that a change in the regulations is unnecessary. FSIS proceeded with this rulemaking after conducting a thorough review of the 2009 and 2014 investigations, NRs, peer-reviewed scientific literature, and public comments, as well as consulting with Agency subject-matter experts and staff in the field. FSIS concluded that the totality of evidence showed that, under current regulations, establishments may have a financial incentive to force non-ambulatory disabled calves to rise from a recumbent position and send weakened veal calves to slaughter. Thus, a change in the regulations is necessary to comply with the HMSA and its implementing regulations.

FSIS convened an intra-agency workgroup composed of subject-matter experts to assist with this rulemaking. In addition, the Agency consulted with the FSIS Office of Field Operations to collect data for establishments that slaughter veal calves in order to accurately determine the number of non-ambulatory disabled veal calves that were inspected after the recovery time and then sent for slaughter.

In the proposed rule, FSIS cited 33 NRs between 2012 and 2014 to support these conclusions. In addition, the Agency has conducted a review of NRs issued in 2015. In 2015, the Agency found one instance of excessive use of an electric prod in an attempt to force a non-ambulatory disabled veal calf to rise, one instance of ambulatory veal calves walking over a non-ambulatory veal calf, three instances of veal calves in holding pens without water, and one instance of veal calves in a holding pen for longer than 24 hours without feed. These findings reinforce the Agency's conclusions that establishments may have an incentive to force veal calves to rise and send weakened calves to slaughter. In addition, as was demonstrated in the 2014 HSUS video, FSIS believes that many of these occurrences happen outside the view of inspection personnel.

FSIS also conducted a thorough review of relevant peer-reviewed scientific literature, including peer-reviewed literature cited in the petition submitted by HSUS, regarding factors that can lead to non-ambulatory disabled veal calves. Based on its findings, the Agency concluded that there is a direct correlation between the growing and transport conditions of veal calves, and whether these calves arrive at an establishment non-ambulatory disabled.[2] Thus, the Agency estimates that by incentivizing growers and transporters to improve animal welfare conditions, this final rule will lead to stronger, healthier calves being offered for slaughter.[3]

Comment: Several farm bureaus stated that complete elimination of non-ambulatory disabled veal calves from animals intended for slaughter for human food is an unrealistic goal. These commenters, along with industry trade groups and a veal processor, noted that otherwise healthy calves could be non-ambulatory disabled for a myriad of reasons, including the age and size of calves, adverse weather conditions, transportation time, calf hydration status, and length of time between unloading and stunning process.

Response: The Agency acknowledges that many circumstances may contribute to calves arriving at establishments in a non-ambulatory disabled condition. However, FSIS's current regulations may provide an incentive for livestock producers and establishments to send weakened veal calves to slaughter in the hope that the veal calves are able to sufficiently recover to pass ante-mortem inspection. Sending such weakened veal calves to slaughter increases the chances that they will go down and be subjected to conditions that are inhumane. In addition, a study conducted by researchers from the University of Manitoba Department of Animal Science, and Agriculture and Agri-Food Canada's Lethbridge Research Centre indicated that there is a direct correlation between calves that arrive at an establishment non-ambulatory disabled and poor animal welfare conditions before and during transport.[4] The study indicated that animal condition upon loading is an important risk factor in the outcome of the journey.

This final rule will not lead to a complete elimination of non-ambulatory disabled veal calves that arrive at slaughter establishments; however, it will likely create an incentive for growers and transporters to improve animal welfare conditions and send healthier and stronger animals that can handle the stress and other risk factors associated with transportation to slaughter establishments. This will, in turn, reduce the number of non-ambulatory disabled veal calves that arrive at establishments.

Comment: One veal processor stated that the proposed rule should apply only to bob veal calves and should exclude formula fed and non-formula fed veal calves. The same commenter stated that the growing conditions of formula fed veal calves, including vaccinations, iron rich diets, and group loose-housing pens, make formula fed veal calves less susceptible to diseases than bob veal calves.

Response: The final rule will apply to all non-ambulatory disabled veal calves and does not distinguish bob veal calves from formula and non-formula fed veal calves. Although the Agency acknowledges that formula fed veal calves are typically stronger and less susceptible to disease than bob veal calves, and the Agency's regulatory impact analysis reveals that a higher percentage of bob veal calves will most likely be affected by this final rule, FSIS's 2014 investigation showed that humane handling violations do occur at formula fed veal calf slaughter establishments.

Comment: A private citizen recommended that the rule distinguish between fatigued versus diseased animals to prevent the waste of otherwise healthy animals. An industry trade association, a veal processor, and a doctor of veterinary medicine questioned FSIS's assertion that prohibiting the slaughter of all non-ambulatory disabled veal calves will eliminate uncertainty in determining the disposition of these calves. These commenters stated that inspectors are capable of determining whether a calf is diseased or injured rather than tired or cold.

Response: In 2009, FSIS amended 9 CFR 309.3(e) to remove the case-by-case disposition determination of cattle that became non-ambulatory disabled after ante-mortem inspection in order to reduce the uncertainty in determining the proper disposition of these cattle and increase FSIS inspector efficiency (74 FR 11463). FSIS has used the same rationale here.

This final rule eliminates the time that FSIS inspectors spend determining whether veal calves are non-ambulatory disabled because they are tired or cold or because they have diseases, such as enteritis (80 FR 27270). This final rule also eliminates the time that FSIS inspectors spend inspecting the veal calves that were set apart.

Comment: Two animal welfare groups and an individual noted that FSIS requires non-ambulatory disabled adult cattle to be condemned and disposed of, and requested that FSIS extend the same requirement to non-ambulatory disabled veal calves. In contrast, two farm bureau organizations stated that non-ambulatory disabled veal calves should not be treated the same as adult cattle, noting that veal calves are not a risk for bovine spongiform encephalopathy (BSE), and do not pose the same food safety concerns as adult cattle.

Response: FSIS issued a final rule in 2007 that prohibited the slaughter of non-ambulatory disabled cattle because of the threat of BSE, but created an exception for non-ambulatory disabled veal calves to be set apart and re-inspected. As explained in the proposed rule, while cattle younger than 30 months do not present a serious risk of BSE, they are susceptible to other systemic and metabolic diseases,[5] and injury because of inadequate immunoglobulin transfer, nutritional inadequacies of an all-liquid iron deficient diet, activity restriction, and stress (80 FR 27270). As is discussed above, the Agency has also concluded that the set-aside provision implemented in 2007 should nonetheless be removed because it may have created an incentive for establishments to inhumanely force non-ambulatory disabled veal calves to rise from a recumbent position. In addition, this final rule will increase inspection efficiency by eliminating the time that FSIS inspectors spend re-inspecting non-ambulatory disabled veal calves if they are again offered for slaughter.

Comment: Several animal welfare groups requested that FSIS clarify when livestock are "offered" for slaughter. These commenters stated that establishments could exploit a loophole by setting aside non-ambulatory disabled veal calves to rest and recover, and "offer" the calves for ante-mortem inspection at a later time. One animal welfare group stated that animals should be considered "offered" for slaughter upon delivery at the slaughter establishment, following the same interpretation as when humane regulations apply per FSIS Directive 6900.2, Ch. II(I) (rev. August 15, 2011).

Response: FSIS has already explained to inspectors when animals destined for slaughter are subject to humane handling regulations and FSIS inspections in FSIS Directive 6,900.2, *Humane Handling and Slaughter of Livestock.* The Directive states that once a vehicle carrying livestock enters, or is in line to enter, an official establishment's premises, the vehicle is considered to be a part of the establishment's premises, and the animals within the vehicle are to be handled in accordance with humane handling regulations. The Directive states that FSIS inspectors can conduct ante-mortem inspections at the vehicle. This Directive is in accord with the final rule that implements the HMSA (44 FR 68809; November 30, 1979), which states in the preamble that "the Department intends to enforce the Act with regard to any inhumane activity occurring on the premises of an official establishment."

---

[2] González, L.A., Schwartzkopf-Genswein, K.S., Bryan, M., Silasi, R., and Brown F. (2015). "Relationship between transport conditions and welfare outcomes during commercial long haul transport of cattle in North America". American Society of Animal Science, 90(10):3640–51 doi: 10.2527/jas2011–4796.

[3] Trunkfield, H.R., and Broom, D.M. (1990). "The Welfare of Calves During Handling and Transport". Applied Animal Behaviour Science, v. 28, p. 135–152.

[4] González, L.A., Schwartzkopf-Genswein, K.S., Bryan, M., Silasi, R., and Brown F. (2015). "Relationship between transport conditions and welfare outcomes during commercial long haul transport of cattle in North America". American Society of Animal Science, 90(10):3640–51 doi: 10.2527/jas2011–4796.

[5] McDonough, Sean P., Stull, Carolyn L., and Osburn, Bennie I. (1994). "Enteric Pathogens in Intensively Reared Veal Calves". American Journal of Veterinary Research, v. 55, no. 11, p. 1516–1519.

In addition, in the final rule FSIS is removing a provision in 9 CFR 309.1(b) that requires ante-mortem inspection to be made "in pens." This amendment harmonizes the regulations with current practice, and closes the potential loophole that may have allowed establishments to set aside non-ambulatory disabled veal calves to rest and recover, and "offer" them for slaughter at a later time. It also prevents establishments and transporters from diverting non-ambulatory disabled animals to other establishments. FSIS will update FSIS Directive 6,100.1, *Ante-Mortem Livestock Inspection,* to reflect this change. Inspectors have the option to perform the humane handling portion of ante-mortem inspection directly on the truck, and wait to complete ante-mortem inspection once the animals are in holding pens.

FSIS inspectors may not be present in the early morning hours when animals typically arrive and are offloaded. FSIS may assign additional personnel to the establishment during off-hours to monitor the arrival of the animals if FSIS identifies the need to do so.

Comment: Two animal welfare organizations and a food safety organization stated that the definition given for "promptly" in the preamble to the proposed rule is too vague and gives too much discretion to establishments. One animal welfare organization asked FSIS to explain the "facts and circumstances" to be taken into account by inspectors and establishment employees when an animal is found to be non-ambulatory disabled.

Response: The Agency disagrees that it gave too much discretion to establishments. As FSIS explained in the proposed rule, all condemned non-ambulatory disabled cattle must be euthanized within a reasonable time in view of all of the facts and circumstances (80 FR 27271). The facts and circumstances that FSIS inspectors will take into account when assessing compliance with the "promptly" requirement include whether the animal is suffering (*e.g.,* injured, dehydrated, or vulnerable to being stepped on by ambulatory cattle), and extenuating circumstances such as weather conditions and emergencies.

Comment: One food safety organization requested that FSIS consider prohibiting the slaughter of other farm animals that can be susceptible to "downer" illnesses, including swine, sheep, and goats.

Response: The proposed rule and request for comments addressed the disposition of non-ambulatory disabled veal calves only. In 2013, FSIS denied a petition submitted on behalf of Farm Sanctuary that requested the Agency to amend its ante-mortem inspection regulations to require non-ambulatory disabled pigs, sheep, goats, and other amenable livestock species to be condemned. In 2014, FSIS received another petition on behalf of Farm Sanctuary and various other animal advocacy organizations that requested the Agency to amend its ante-mortem inspection regulations to prohibit the slaughter of non-ambulatory disabled pigs. FSIS will conduct a full independent review and analysis of this petition to determine the validity of the requested rulemaking.

Comment: Several industry members stated that the annual economic impact of the proposed regulatory changes will be significantly higher on the veal industry than portrayed in the proposed rule. These commenters stated that the veal industry had much higher production costs in 2015 than in previous years.

An industry trade association and veal processor also questioned FSIS's use of deleted records in the Agency's Public Health Information System (PHIS) to determine the number of non-ambulatory disabled veal calves that are currently re-inspected and released for slaughter. These commenters stated that the use of deleted records in PHIS is not a close approximation of the actual number of non-ambulatory disabled veal calves released for slaughter in veal establishments.

Response: FSIS updated its cost estimate to reflect 2015 prices. The estimated market value of bob veal increased to $20.00-$560.00 per head in 2015, while the market value of formula and non-formula fed veal increased to $1,000.00–$1,300.00 per head in 2015.[6]

FSIS also changed its methodology for determining the number of non-ambulatory disabled veal calves that were inspected after the recovery time and then sent for slaughter. FSIS collected additional data via the FSIS Office of Field Operations for the establishments that slaughter veal calves, and estimated the number of non-ambulatory disabled veal calves based on this data. As a result, FSIS adjusted its estimated number of non-ambulatory disabled veal calves for all three veal categories.

On the basis of these updated numbers, FSIS adjusted its estimated annual cost for the final rule. The new estimated annual cost to the U.S. veal industry ranges between $0.374 million and $1.206 million compared to $0.002 million and $0.161 million in the proposed rule.

Comment: Several farm bureaus asked if the proposed rule will improve the efficiency of the inspection process. These commenters stated that calves are often rested in the same unloading area where the inspectors work, and inspection of recovered calves only amounts to a minor inconvenience and takes up little of the inspectors' time.

Response: FSIS has conducted an analysis of PHIS data, and has determined that it takes an inspector approximately 15 minutes to inspect a calf after recovery. Because FSIS will no longer have to inspect non-ambulatory disabled veal calves to determine their disposition, the Agency will save between 180 hours (minimum) and 297 hours (maximum) in total. This time will allow inspectors the ability to engage in other inspection activities.

Executive Orders 12866 and 13563, and the Regulatory Flexibility Act

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule has been designated a "non-significant" regulatory action under section 3(f) of Executive Order (E.O.) 12866.

---

[6] Data derived from USDA/AMS Weekly Veal Market Summary, Vol 18, Numbers 1–41. At: *http://www.ams.usda.gov/mnreports/lswveal.pdf.*

Accordingly, the rule has not been reviewed by the Office of Management and Budget under E.O. 12866.

Baseline

FSIS has updated the baseline for the final regulatory impact analysis (FRIA) to reflect the most recent available data. Table 1 compares the total veal calves slaughtered in calendar year (CY) 2015 (FRIA), CY2014, and CY2013 (preliminary regulatory impact analysis (PRIA)).

TABLE 1—TOTAL VEAL CALVES INSPECTED AND SLAUGHTERED CY2013 (PROPOSED RULE) VS. CY2014 VS. CY2015 (FINAL RULE)

Veal calf type	Sum of the head count		
	CY2013 (1,000)	CY2014 (1,000)	CY2015 (1,000)
Bob Veal	405.6	248.3	173.6
Formula Fed Veal	310.8	282.8	253.8
Non-Formula Fed Veal	8.6	7.4	6.7
Total	725.5	538.5	434.1

Source: FSIS, Public Health Information System (PHIS)

In CY2015, federally-inspected veal calf establishments slaughtered a total of 434,051 veal calves (Table 2). Market value estimates for slaughtered veal calves based on CY2015 data reported by the U.S. Department of Agriculture, Agricultural Marketing Service (AMS), were between $264.0 million and $435.9 million.[7] FSIS used the minimum and maximum veal calf prices reported by USDA/AMS. These prices were $20.00–$560.00 for bob veal and $1,000.00–$1,300.00 for formula fed and non-formula fed veal calves.

TABLE 2—TOTAL VEAL CALVES INSPECTED AND SLAUGHTERED AND MARKET VALUE, CY 2015

Veal calf type	Sum of head count (1,000)	Min market value * ($1,000,000)	Max market value * ($1,000,000)
Bob Veal	173.6	$3.5	$97.2
Formula Fed Veal	253.8	253.8	329.9
Non Formula Fed Veal	6.7	6.7	8.7
Grand Total *	434.1	264.0	435.9

Notes: Head Slaughtered source—FSIS, Public Health Information System (PHIS).
* Sum may not add up due to rounding.

The U.S. veal industry is made up of establishments in the small and very small Hazard Analysis and Critical Control Point (HACCP)-size categories.[8] In CY 2015, there were 118 federally inspected and nine state inspected establishments that slaughtered veal calves. Of the 118 federally inspected establishments, 90 (76%) were very small, and 28 (24%) were small HACCP size establishments.

Expected Cost of the Final Rule

The expected costs of the final rule for the veal establishments are a result of the lost market value of the non-ambulatory disabled veal calves that the affected establishments will no longer be able to slaughter for human food. The addition of the word "promptly" to 9 CFR 309.3(e) does not have any expected costs, nor does the removal of the requirement that ante-mortem inspection be conducted "in pens" (9 CFR 309.1(b)).

FSIS collected additional data via the FSIS Office of Field Operations for the establishments that slaughter veal calves. As a result, FSIS adjusted its estimated annual cost for the FRIA based on new calculated non-ambulatory disabled veal ratios and the 2015 prices.

In CY 2015, there were eight establishments that accounted for 99.96% of the formula fed veal calves slaughtered in the U.S. Taking into account that extreme weather conditions and transit fatigue during the winter and summer months can affect the number of non-ambulatory disabled veal calves, FSIS recalculated its cost estimates, using the 2015 prices.

TABLE 3—TOTAL VEAL CALVES SLAUGHTERED AND MARKET VALUE *

Veal calf type	Sum of the head count (1,000)	Min number of NAD veal	Max number of NAD veal	Minimum market value ($million)	Maximum market value ($million)	Minimum market value lost ($million)	Maximum market value lost ($million)
Bob Veal	173.6	352	455	$3.5	$97.2	$0.007	$0.255
Formula Fed Veal	253.8	358	713	253.8	329.9	0.358	0.927

---

[7] Bob Veal Market Value: $20.00–$560.00 per head. Formula and non-formula fed veal market value: $1,000.00–$1,300.00 per head. Data derived from USDA/AMS Weekly Veal Market Summary, Vol 18, Numbers 1–41. At: *http://www.ams.usda.gov/mnreports/lswveal.pdf.*

[8] HACCP size: Very Small Establishment = Less than 10 employees or less than $2.5 million in annual sales; Small Establishment = 10–499 employees; Large Establishment = 500 or more employees.

TABLE 3—TOTAL VEAL CALVES SLAUGHTERED AND MARKET VALUE *—Continued

Veal calf type	Sum of the head count (1,000)	Min number of NAD veal	Max number of NAD veal	Minimum market value ($million)	Maximum market value ($million)	Minimum market value lost ($million)	Maximum market value lost ($million)
Non Formula Fed Veal	6.7	9	19	6.7	8.7	0.009	0.024
Grand Total	434.1	720	1,187	264.0	435.9	0.374	1.206

* The values are based on 2015 prices. The slaughter head counts are based on CY 2015 PHIS data.

Based on the new data, FSIS adjusted the maximum number of formula fed veal calves that might be condemned due to this rule upward to 713 (253,837 * 0.00281), with an estimated maximum cost of $0.927 million. The minimum number of formula fed veal calves that might be condemned due to this rule is 358 (253,837 * 0.00141), with an estimated minimum cost of $0.358 million.

FSIS also adjusted the maximum number of bob veal and non-formula fed veal calves. For the bob veal, five establishments accounted for 83% of the total bob veal calves slaughtered in the United States. The maximum number of bob veal calves affected by the final rule was adjusted to 455 (173,556 * 0.00262), with an estimated maximum cost of $0.255 million. The minimum number of bob veal calves that might be condemned due to this rule is 352 (173,556 * 0.00203), with an estimated minimum cost of $0.358 million.

For non-formula fed veal calves, FSIS assumed the same non-ambulatory disabled rates as for the formula fed veal calves. The maximum number of non-formula fed veal calves affected by the final rule was adjusted to 19 (6,658 * 0.00281), with an estimated maximum cost of $0.025 million. The minimum number of non-formula fed veal calves that might be condemned due to this rule is 9 (6,658 * 0.00141), with an estimated minimum cost of $0.009 million.

As illustrated in table 2, the expected first year total costs to the U.S. veal industry due to the final rule ranges between $0.374 million and $1.026 million. The estimated costs have a minimal impact on the veal industry. The value lost to the U.S. veal industry ranges between 0.14% and 0.28% of the total veal value in a year.

Expected Benefits of the Final Rule

FSIS predicts that this rule would provide Agency personnel with savings in terms of inspection time. According to PHIS data, it takes an inspector approximately 15 minutes to re-inspect a calf. Because FSIS will not have to re-inspect the veal calves that are non-ambulatory disabled, the Agency will save anywhere from 180 hours (minimum) to 297 hours (maximum) in total (table 4). The saved inspection time will allow the inspector the ability to engage in other inspection activities.

TABLE 4—BENEFIT IN TERMS OF TIME SAVING

Time to do ante-mortem inspection	Bob veal	Formula fed veal	Non-formula fed veal	Total
Minimum Number of Veal Calves Affected	352	358	9	719
Maximum Number of Veal Calves Affected	455	713	19	1,187
Minimum Time Saved	88	89	2	180
Maximum Time Saved	114	178	5	297

Source: PHIS.

The final rule will ensure the humane disposition of the non-ambulatory disabled veal calves. The rule will also increase the efficiency and effective implementation of inspection and humane handling requirements at official establishments. In addition, the rule will incentivize growers and transporters of cattle to improve animal welfare, both before and during transport.

A recent study conducted by researchers from the University of Manitoba Department of Animal Science's Agriculture and Agri-Food Canada, Lethbridge Research Centre, shows that there is a correlation between transport and transport conditions such as temperature, length of the trip, and space allowance (density of animals to size), and cattle arriving at the establishment dead, lame, or non-ambulatory disabled. The study notes that, out of all classes of cattle, calves and cull cattle are "more likely to be dead and non-ambulatory during the journey." The authors indicate that animal condition upon loading plays an important risk factor in the outcome of the journey. The study concludes that cattle arriving at an establishment dead, lame, or non-ambulatory disabled is an indication of extremely poor welfare conditions.[9] The final rule will therefore reduce the number of calves that arrive at establishments non-ambulatory disabled by incentivizing growers and transporters to improve animal welfare conditions and send healthier and stronger animals to slaughter establishments.

Regulatory Flexibility Act Assessment

The FSIS Administrator certifies that, for the purpose of the Regulatory Flexibility Act (5 U.S.C. 601–602), the final rule will not have a significant economic impact on a substantial number of small entities in the United States. The Agency estimates that this rule would possibly affect 127 (118 federally inspected) small and very small HACCP size veal slaughter establishments. Although many small and very small establishments are affected by this rule, the volume of veal that will not be eligible for slaughter is very low. Further, the estimated total annual cost per establishment is between $2,945 (total minimum cost/number of establishments = $374,000/127) and $8,087 (total maximum cost/number of establishments = $1,027,000/127).

---

[9] González, L.A., Schwartzkopf-Genswein, K.S., Bryan, M., Silasi, R., and Brown F. (2015). "Relationship between transport conditions and welfare outcomes during commercial long haul transport of cattle in North America". American Society of Animal Science, 90(10):3640–51 doi: 10.2527/jas2011–4796.

Paperwork Reduction Act

There are no paperwork or recordkeeping requirements associated with this final rule under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

E-Government Act

FSIS and USDA are committed to achieving the purposes of the E-Government Act (44 U.S.C. 3601, *et seq.*) by, among other things, promoting the use of the Internet and other information technologies and providing increased opportunities for citizen access to Government information and services, and for other purposes.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under this rule: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) no administrative proceedings will be required before parties may file suit in court challenging this rule.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments." E.O. 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

FSIS has assessed the impact of this rule on Indian tribes and determined that this rule does not, to our knowledge, have tribal implications that require tribal consultation under E.O. 13175. If a Tribe requests consultation, the Food Safety and Inspection Service will work with the Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions and modifications identified herein are not expressly mandated by Congress.

USDA Non-Discrimination Statement

No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

How To File a Complaint of Discrimination

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410, Fax: (202) 690–7442, Email: *program.intake@usda.gov*.

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS Web page located at: *http://www.fsis.usda.gov/federal-register.*

FSIS also will make copies of this publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The Update is available on the FSIS Web page. Through the Web page, FSIS is able to provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *http://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

List of Subjects in 9 CFR Part 309

Animal diseases, Meat inspection, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, FSIS amends 9 CFR part 309 as follows:

PART 309—ANTE-MORTEM INSPECTION

■ 1. The authority citation for part 309 continues to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

■ 2. Amend § 309.1 by revising the heading and the first sentence of paragraph (b) to read as follows:

§ 309.1 Ante-mortem inspection on premises of official establishments.

* * * * *

(b) Such ante-mortem inspection shall be made on the premises of the establishment at which the livestock are offered for slaughter before the livestock shall be allowed to enter into any department of the establishment where they are to be slaughtered or dressed or in which edible products are handled. * * *

■ 3. Amend § 309.3 by revising paragraph (e) to read as follows:

§ 309.3 Dead, dying, disabled, or diseased and similar livestock.

* * * * *

(e) Establishment personnel must notify FSIS inspection personnel when cattle become non-ambulatory disabled after passing ante-mortem inspection. Non-ambulatory disabled cattle that are offered for slaughter must be condemned and promptly disposed of in accordance with § 309.13.

§ 309.13 [Amended]

■ 4. Amend § 309.13(b) by removing the sentence "Veal calves that are unable to rise from a recumbent position and walk because they are tired or cold may be set apart and held as provided in this paragraph."

Done in Washington, DC, on: July 11, 2016.

Alfred V. Almanza,

Acting Administrator.

[FR Doc. 2016–16904 Filed 7–15–16; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 172

[Docket No. FDA–2013–N–0888]

Food Additives Permitted for Direct Addition to Food for Human Consumption; Vitamin D_2 and Vitamin D_3

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA or we) is amending the food additive regulations to expand the safe uses of vitamin D_2 as a nutrient supplement in edible plant-based beverages intended for use as milk alternatives and in edible plant-based yogurt alternatives and vitamin D_3 as a nutrient supplement in milk at levels higher than those currently permitted. We are taking this action in response to a food additive petition filed by Dean Foods Company and WhiteWave Foods Company.

DATES: This rule is effective July 18, 2016. See section VIII for further information on the filing of objections. Submit either electronic or written objections and requests for a hearing by August 17, 2016. The Director of the Federal Register approves the incorporation by reference of certain publications listed in the rule as of July 18, 2016.

ADDRESSES: You may submit objections and requests for a hearing as follows:

Electronic Submissions

Submit electronic objections in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Objections submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your objection will be made public, you are solely responsible for ensuring that your objection does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your objection, that information will be posted on *http://www.regulations.gov.*
- If you want to submit an objection with confidential information that you do not wish to be made available to the public, submit the objection as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper objections submitted to the Division of Dockets Management, FDA will post your objection, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA–2013–N–0888 for "Food Additives Permitted for Direct Addition to Food for Human Consumption; Vitamin D_2 and Vitamin D_3 Final Rule." Received objections will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit an objection with confidential information that you do not wish to be made publicly available, submit your objections only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Judith Kidwell, Center for Food Safety and Applied Nutrition (CFSAN) (HFS–265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3835, 240–402–1071.

SUPPLEMENTARY INFORMATION:

I. Background

In a document published in the **Federal Register** of August 16, 2013 (78 FR 49990), FDA announced that Dean Foods Company (Dean Foods) and WhiteWave Foods Company (WhiteWave), c/o Hogan Lovells US LLP, Columbia Square, 555 13th Street NW., Washington, DC 20004, had jointly filed a food additive petition (FAP 3A4801). The petition proposed to amend 21 CFR 172.379 to provide for the safe use of vitamin D_2 as a nutrient supplement in edible plant-based food products intended for use as alternatives to milk and milk products and to amend 21 CFR 172.380 to provide for the safe use of vitamin D_3 as a nutrient supplement in milk at levels higher than those currently permitted. After the notice of filing published, the petitioners amended the petition to limit the proposed use of vitamin D_2 to only edible plant-based beverages intended as alternatives to milk (*e.g.,* soy-, rice-, almond-, coconut-based beverages) and edible plant-based yogurt alternatives. This final rule is a complete response to the petition.

Dean Foods/WhiteWave have requested that we amend § 172.379 to authorize the use of vitamin D_2 as a nutrient supplement at levels not to exceed 84 International Units (IU) per 100 grams (g) in edible plant-based beverages intended for use as milk alternatives and not to exceed 89 IU per 100 g in edible plant-based yogurt alternatives. Dean Foods/WhiteWave requested that the proposed use of 84 IU vitamin D_2 per 100 g in edible plant-based beverages replace the current allowable maximum use of 50 IU per 100 g in soy beverages authorized under

§ 172.379(c). Specifically, Dean Foods/WhiteWave requested that we amend § 172.379(c) to eliminate the "soy beverages" category, and instead create a new category of food that may be supplemented with vitamin D_2. This category, "edible plant-based beverages intended for use as milk alternatives", would include soy beverages intended as milk alternatives, and would have a maximum allowable use of 84 IU vitamin D_2 per 100 g. This category would also include other edible plant-based beverages made from rice, almond, and coconut, among other foods, that are intended as milk alternatives. Dean Foods/WhiteWave also requested that we amend § 172.380 to allow for the addition of vitamin D_3 as a nutrient supplement in milk at levels not to exceed 84 IU per 100 g milk. For milk with more than the amount of vitamin D provided for in the milk standard of identity in 21 CFR 131.110(b)(2), the milk would be required to be named by use of a nutrient content claim and a standardized term in accordance with 21 CFR 130.10.

Vitamin D comprises a group of fat-soluble seco-sterols and comes in many forms. The two major physiologically relevant forms are vitamin D_2 and vitamin D_3. Vitamin D without a subscript represents either vitamin D_2 or vitamin D_3 or both. Vitamin D is affirmed as generally recognized as safe (GRAS) for use in food as a nutrient supplement in accordance with 21 CFR 184.1950(c)(1) and 21 CFR 184.1(b)(2), with the following specific limitations:

Category of food	Maximum levels in food (as served)
Breakfast cereals	350 IU/100 grams (g).
Grain products and pasta	90 IU/100 g.
Milk	42 IU/100 g.
Milk products	89 IU/100 g.

Additionally, under § 184.1950(c)(2) and (3), vitamin D is affirmed as GRAS for use in infant formulas and margarine, respectively. Under § 172.380, vitamin D_3 is approved for use as a food additive as a nutrient supplement in calcium-fortified fruit juices and fruit juice drinks, meal replacement and other type bars, soy protein-based meal replacement beverages represented for special dietary use in reducing or maintaining body weight, certain cheese and cheese products, meal replacement beverages that are not intended for special dietary use in reducing or maintaining body weight, and foods represented for use as a sole source of nutrition for enteral feeding.

Under § 172.379, vitamin D_2 is approved for use as a food additive as a nutrient supplement in soy beverages, soy beverage products, soy-based butter substitute spreads, and soy-based cheese substitutes, and soy-based cheese substitute products.

Under § 172.381, vitamin D_2 bakers yeast is approved for use as a food additive as a source of vitamin D_2 and as a leavening agent in yeast-leavened baked goods and baking mixes and yeast-leavened baked snack foods.

Vitamin D is essential for human health. The major function of vitamin D is the maintenance of blood serum concentrations of calcium and phosphorus by enhancing the absorption of these minerals in the small intestine. Vitamin D deficiency can lead to abnormalities in calcium and bone metabolism, such as rickets in children or osteomalacia in adults. Excessive intake of vitamin D elevates blood plasma calcium levels (hypercalcemia) by increased intestinal absorption and/or mobilization from the bone.

To ensure that vitamin D is not added to the U.S. food supply at levels that could raise safety concerns, FDA affirmed vitamin D as GRAS with specific limitations as listed in § 184.1950. Under § 184.1(b)(2), an ingredient affirmed as GRAS with specific limitations may be used in food only within such limitations, including the category of food, functional use of the ingredient, and level of use. Any addition of vitamin D to food beyond those limitations set out in § 184.1950 requires either a food additive regulation or an amendment of § 184.1950.

To support their petition, Dean Foods/WhiteWave submitted dietary exposure estimates of vitamin D from the proposed uses of vitamin D_2 and vitamin D_3, as well as all dietary sources from naturally occurring sources of vitamin D and uses in accordance with our approved food additive regulations (§§ 172.379, 172.380, and 172.381) and our GRAS affirmation regulation (§ 184.1950). They also included dietary supplements in their estimates and compared these intake estimates to the Tolerable Upper Intake Level (UL) for vitamin D established by the Institute of Medicine (IOM) of the National Academies. Dean Foods/WhiteWave also submitted a number of publications pertaining to human clinical studies on vitamin D. Based on this information, Dean Foods/WhiteWave concluded that the proposed uses of vitamin D_2 in edible plant-based beverages intended as alternatives to milk, edible plant-based yogurt alternatives, and vitamin D_3 in milk are safe.

II. Evaluation of Safety

To establish with reasonable certainty that a food additive is not harmful under its intended conditions of use, we consider the projected human dietary exposure to the additive, the additive's toxicological data, and other relevant information (such as published literature) available to us. We compare the estimated daily intake (EDI) of the additive from all food sources to an acceptable daily intake level established by toxicological data. The EDI is determined by projections based on the amount of the additive proposed for use in particular foods and on data regarding the amount consumed from all food sources of the additive. We commonly use the EDI for the 90th percentile consumer of a food additive as a measure of high chronic dietary intake.

A. Acceptable Daily Intake Level for Vitamin D

In 2011, the Standing Committee on the Scientific Evaluation of Dietary Reference Intakes of the Food and Nutrition Board at the IOM conducted an extensive review of relevant published scientific literature on vitamin D to update current dietary reference intakes and ULs for vitamin D. Based on this information, the IOM revised the ULs for vitamin D and developed a report on their findings (Ref. 1). In their 2011 assessment of vitamin D, the IOM established a UL of 1,000 IU per day (IU/p/d) for infants 0 months to 6 months of age and a UL of 1,500 IU/p/d for infants 6 months to 12 months of age. For children 1 year to 3 years of age, the IOM established a UL of 2,500 IU/p/d; for children 4 years to 8 years of age, the IOM established a UL of 3,000 IU/p/d. For children 9 years to 18 years of age and adults, the IOM established a UL of 4,000 IU/p/d.

The IOM considers the UL as the highest average daily intake level of a nutrient that poses no risk of adverse effects when the nutrient is consumed over long periods of time. The UL is determined using a risk assessment model developed specifically for nutrients. The dose-response assessment, which concludes with an estimate of the UL, is built upon three toxicological concepts commonly used in assessing the risk of exposures to chemical substances: No-observed-adverse-effect level, lowest-observed-effect level, and application of an uncertainty factor. We considered the ULs established by the IOM relative to the intake estimates as the primary basis for assessing the safety of the petitioned uses of vitamin D_2 and vitamin D_3. We also reviewed scientific articles on the safety of vitamin D submitted in the petition, as well as other relevant published studies available to FDA.

B. Estimated Daily Intake for Vitamin D

For the proposed uses of vitamin D_2 and vitamin D_3, Dean Foods/WhiteWave provided dietary intake estimates of vitamin D for 11 population groups, assuming maximum levels of vitamin D in all foods that could be fortified (except for one scenario where typical fortification levels in infant formula were used), as well as in the petitioned foods. They also included exposure from dietary supplements as reported in the 2003–2008 National Health and Nutrition Survey (NHANES) 30-day dietary supplement use data (*http://wwwn.cdc.gov/nchs/nhanes/search/datapage.aspx?Component=dietary*) and from naturally occurring food sources.

The exposure estimates performed by Dean Foods/WhiteWave are appropriate. However, there are some exposure parameters that have changed since the estimates were completed in 2013. In particular, Dean Foods/WhiteWave provided estimates that included vitamin D exposure from fortification of edible plant-based dairy analogs other than edible plant-based yogurt alternatives, which they are no longer seeking to fortify. Dean Food/WhiteWave also included fortification of meal replacement bars at a level of 500 IU/40 g in anticipation of the approval of FAP 2A4788 (Abbott Laboratories); however, this use was subsequently withdrawn from the petition before the final rule issued (see 79 FR 46993, August 12, 2014). In addition, more recent 24-hour recall dietary supplement data from the 2009–2012 NHANES (*http://wwwn.cdc.gov/nchs/nhanes/search/datapage.aspx?Component=dietary*) have become available that may better represent current vitamin D exposure from dietary supplements than the 30-day dietary supplement use data from the 2003–2008 NHANES used by Dean Foods/WhiteWave. Moreover, a recent published study suggests that it may be appropriate to include dietary sources of the vitamin D metabolite, 25-hydroxyvitamin D (25(OH)D), in vitamin D exposure estimates to take into account discrepancies seen between dietary intake and blood serum levels of vitamin D (Ref. 2). The foods that were identified in the study as sources of 25(OH)D were beef, pork, chicken, turkey, and eggs. The study also indicated that 25(OH)D may have a potency five times that of vitamin D. For these reasons, we have used the 2009–2012 NHANES data to estimate dietary exposure to vitamin D from: (1) The petitioned uses in milk, edible plant-based beverages intended as milk alternatives, and edible plant-based yogurt alternatives; and (2) cumulative exposure from all current sources of vitamin D (*i.e.*, naturally occurring sources, approved fortified sources, and dietary supplements), the petitioned uses of vitamin D in milk, edible plant-based beverages intended as milk alternatives, and edible plant-based yogurt, and exposure from sources of 25(OH)D, which have been adjusted to account for the difference in potency between 25(OH)D and vitamin D.

For the overall U.S. population 1 year of age and older, the cumulative exposure at the 90th percentile from all food sources of vitamin D, including the proposed uses, dietary supplements, and 25(OH)D, was estimated to be 2,000 IU/p/d. The cumulative exposure for infants 0 to 6 months of age and infants 6 to 12 months of age from all food sources of vitamin D, including the proposed uses, dietary supplements, and 25(OH)D, was estimated to be 948 IU/p/d and 988 IU/p/d, respectively, for the 90th percentile consumer (Ref. 3).

C. Safety of the Petitioned Uses of Vitamin D_2

We reviewed and evaluated the information submitted by Dean Foods/WhiteWave regarding the safety of the dietary intake of vitamin D from the proposed uses in milk, edible plant-based beverages intended as milk alternatives, and edible plant-based yogurt alternatives. Dean Food/WhiteWave submitted reports of scientific studies published subsequent to the 1997 IOM report and issuance of the final rule (79 FR 46993) authorizing the use of vitamin D_3 in meal replacement beverages that are not intended for special dietary use in reducing or maintaining body weight and in foods represented for use as a sole source of nutrition for enteral feeding. Dean Food/WhiteWave concluded that these publications support a conclusion that the proposed use of vitamin D is safe.

We reviewed the published reports of scientific studies on vitamin D submitted by Dean Food/WhiteWave, as well as other relevant published studies available to us since our previous evaluations of six food additive petitions for fortifying a variety of foods with vitamin D (77 FR 52228, August 29, 2012; 74 FR 11019, March 16, 2009; 70 FR 69435, November 16, 2005; 70 FR 37255, June 29, 2005; 70 FR 36021, June 22, 2005; 68 FR 9000, February 27, 2003). These studies did not raise any new safety concerns regarding the current or proposed uses of vitamin D. The most recent food additive petition resulted in our amendment of the food additive regulations in § 172.380 to allow for the safe use of vitamin D_3 in meal replacement beverages that are not intended for special dietary use in reducing or maintaining body weight and in foods represented for use as a sole source of nutrition for enteral feeding (79 FR 46993). The six earlier food additive petitions also resulted in amendments of the food additive regulations to allow for the safe use of vitamin D as a nutrient supplement in certain foods.

We considered the ULs established by the IOM relative to the intake estimates as the primary basis for assessing the safety of the petitioned uses of vitamin D. Depending on the age group, the IOM UL for vitamin D for the U.S. population 1 year of age and older ranges from 2,500 IU/p/d to 4,000 IU/p/d. The estimated dietary exposure to vitamin D from all food sources, including the proposed uses, at the 90th percentile for the U.S. population (1 years of age and older) is estimated to be 2,000 IU/p/d, which is below the lowest IOM UL of 2,500 IU/p/d in the range of ULs for the overall U.S. population (1 year of age and older). Estimated exposure to vitamin D from all food sources, including the proposed uses, for infants 0 months to 6 months of age at the 90th percentile is 948 IU/p/d; for infants 6 months to 12 months of age, estimated exposure to vitamin D is 988 IU/p/d. Both of these estimates are below the IOM UL of 1,000 IU/p/d for infants 0 months to 6 months of age and 1,500 IU/p/d for infants 6 months to 12 months of age. Because the 90th percentile EDI of vitamin D from all current and proposed food sources for each population group is less than the corresponding IOM UL for that population group, we conclude that dietary intake of vitamin D_2 from the proposed use as a nutrient supplement in edible plant-based beverages intended as milk alternatives and edible plant-based yogurt alternatives and the proposed increased maximum permitted level of vitamin D_3 in milk are safe (Ref. 4).

III. Incorporation by Reference

FDA is incorporating by reference two monographs from the Food Chemicals Codex 9th Edition (FCC 9), which was approved by the Office of the **Federal Register**. You may purchase a copy of the material from the United States Pharmacopeial Convention, 12601

Twinbrook Pkwy., Rockville, MD 20852, 1–800–227–8772, *http://www.usp.org/.*

The current regulation for the use of vitamin D_3 in food (§ 172.380) indicates that the additive must meet the specifications in the FCC 8. The more current FCC is the 9th Edition. The current regulation for vitamin D_2 (§ 172.379) indicates the additive must meet the specifications in the 7th edition of the FCC (FCC 7). Because the specifications for vitamin D_2 and vitamin D_3 in FCC 9 are identical to those in FCC 7 and FCC 8, respectively, Dean Foods/WhiteWave requested that the respective regulations be updated to reference the specifications in FCC 9. Therefore, we are amending §§ 172.379 and 172.380 by adopting the specifications for vitamin D_2 and vitamin D_3 in FCC 9 in place of FCC 7 and FCC 8, respectively.

IV. Conclusion

Based on all data relevant to vitamin D that we reviewed, we conclude that the petitioned uses of vitamin D in milk and edible plant-based beverages intended as milk alternatives and edible plant-based yogurt alternatives within the limits proposed by Dean Food/WhiteWave are safe. Consequently, we are amending the food additive regulations as set forth in this document.

V. Public Disclosure

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that we considered and relied upon in reaching our decision to approve the petition will be made available for public disclosure (see **FOR FURTHER INFORMATION CONTACT**). As provided in § 171.1(h), we will delete from the documents any materials that are not available for public disclosure.

VI. Analysis of Environmental Impact

We previously considered the environmental effects of this rule, as stated in the August 16, 2013, **Federal Register** document of petition for FAP 3A4801. We stated that we had determined, under 21 CFR 25.32(k), that this action "is of a type that does not individually or cumulatively have a significant effect on the human environment" such that neither an environmental assessment nor an environmental impact statement is required. We have not received any new information or comments that would affect our previous determination.

VII. Paperwork Reduction Act of 1995

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

VIII. Objections

If you will be adversely affected by one or more provisions of this regulation, you may file with the Division of Dockets Management (see **ADDRESSES**) either electronic or written objections. You must separately number each objection, and within each numbered objection you must specify with particularity the provision(s) to which you object, and the grounds for your objection. Within each numbered objection, you must specifically state whether you are requesting a hearing on the particular provision that you specify in that numbered objection. If you do not request a hearing for any particular objection, you waive the right to a hearing on that objection. If you request a hearing, your objection must include a detailed description and analysis of the specific factual information you intend to present in support of the objection in the event that a hearing is held. If you do not include such a description and analysis for any particular objection, you waive the right to a hearing on the objection.

Any objections received in response to the regulation may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

IX. Section 301(*ll*) of the Federal Food, Drug, and Cosmetic Act

Our review of this petition was limited to section 409 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 348). This final rule is not a statement regarding compliance with other sections of the FD&C Act. For example, section 301(*ll*) of the FD&C Act (21 U.S.C. 331(*ll*)) prohibits the introduction or delivery for introduction into interstate commerce of any food that contains a drug approved under section 505 of the FD&C Act (21 U.S.C. 355), a biological product licensed under section 351 of the Public Health Service Act (42 U.S.C. 262), or a drug or biological product for which substantial clinical investigations have been instituted and their existence has been made public, unless one of the exemptions in section 301(*ll*)(1) to (4) of the FD&C Act applies. In our review of this petition, FDA did not consider whether section 301(*ll*) of the FD&C Act or any of its exemptions apply to food containing this additive. Accordingly, this final rule should not be construed to be a statement that a food containing this additive, if introduced or delivered for introduction into interstate commerce, would not violate section 301(*ll*) of the FD&C Act. Furthermore, this language is included in all food additive final rules and therefore should not be construed to be a statement of the likelihood that section 301(*ll*) of the FD&C Act applies.

X. References

References marked with an asterisk (*) are on display at the Division of Dockets Management (see **ADDRESSES**), under Docket No. FDA–2013–N–0888, and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they are also available electronically at *http://www.regulations.gov.* References without asterisks are not on display; they are available as published articles and books.

1. Committee to Review Dietary Reference Intakes for Vitamin D and Calcium, Food and Nutrition Board, Institute of Medicine, "Dietary Reference Intakes for Calcium and Vitamin D," National Academies Press, Washington, DC, 2011.
2. Taylor, C., K. Patterson, J. Roseland, et al., "Including Food 25-Hydroxyvitamin D in Intake Estimates May Reduce the Discrepancy Between Dietary and Serum Measures of Vitamin D Status," *Journal of Nutrition,* 144:654–659, 2014.
*3. FDA Memorandum from D. Folmer, CFSAN Chemistry Review Group, Division of Petition Review, to J. Kidwell, Regulatory Group I, Division of Petition Review, January 27, 2016.
*4. FDA Memorandum from T. Tyler, CFSAN Toxicology Team, Division of Petition Review, to J. Kidwell, Division of Petition Review, February 10, 2016.

List of Subjects in 21 CFR Part 172

Food additives, Incorporation by reference, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 172 is amended as follows:

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

■ 1. The authority citation for part 172 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 342, 348, 371, 379e.

■ 2. Amend § 172.379 by revising the first sentence in paragraph (b) and revising the table in paragraph (c) by removing the entry for "Soy beverages" and adding entries for "Edible plant-based beverages intended as milk alternatives'' and ''Edible plant-based yogurt alternatives'' in alphabetical order to read as follows:

§ 172.379 Vitamin D$_2$.

* * * * *

(b) Vitamin D$_2$ meets the specifications of the 2015 Food Chemical Codex, 9th edition (through Third Supplement), effective December 1, 2015, pp. 1260–1261, which is incorporated by reference. * * *

(c) * * *

Category of food	Maximum levels in food (as served)
Edible plant-based beverages intended as milk alternatives.	84 IU/100 g.
Edible plant-based yogurt alternatives.	89 IU/100 g.

* * * * *

■ 3. Amend § 172.380 by revising the first sentence in paragraph (b) and by adding paragraph (c)(8) to read as follows:

§ 172.380 Vitamin D$_3$.

* * * * *

(b) Vitamin D$_3$ meets the specifications of the 2015 Food Chemical Codex, 9th edition (through Third Supplement), effective December 1, 2015, pp. 1261–1262, which is incorporated by reference. * * *

(c) * * *

(8) At levels not to exceed 84 IU per 100 g (800 IU/quart) in milk that contains more than 42 IU vitamin D per 100 g (400 IU/quart) and that meets the requirements for foods named by use of a nutrient content claim and a standardized term in accordance with § 130.10 of this chapter.

Dated: July 11, 2016.

Susan Bernard,

Director, Office of Regulations, Policy and Social Sciences, Center for Food Safety and Applied Nutrition.

[FR Doc. 2016–16738 Filed 7–15–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9777]

RIN 1545–BG41; RIN 1545–BH38

Arbitrage Guidance for Tax-Exempt Bonds

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations on the arbitrage restrictions under section 148 of the Internal Revenue Code (Code) applicable to tax-exempt bonds and other tax-advantaged bonds issued by State and local governments. These final regulations amend existing regulations to address certain market developments, simplify certain provisions, address certain technical issues, and make existing regulations more administrable. These final regulations affect State and local governments that issue tax-exempt and other tax-advantaged bonds.

DATES: *Effective Date:* These final regulations are effective on July 18, 2016.

Applicability Date: For dates of applicability, see §§ 1.141–15, 1.148–11, 1.150–1(a)(2)(iii), and 1.150–2(j).

FOR FURTHER INFORMATION CONTACT: Spence Hanemann, (202) 317–6980 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–1347. The collection of information in these final regulations is in § 1.148–4(h)(2)(viii), which contains a requirement that the issuer maintain in its records a certificate from the hedge provider. For a hedge to be a qualified hedge, existing regulations require, among other items, that the actual issuer identify the hedge on its books and records. The identification must specify the hedge provider, the terms of the contract, and the hedged bonds. These final regulations require that the identification also include a certificate from the hedge provider specifying certain information regarding the hedge.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number.

Books and records relating to a collection of information must be retained as long as their contents might become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1) on the arbitrage investment restrictions under section 148 of the Code and related provisions. On June 18, 1993, the Department of the Treasury (the Treasury Department) and the IRS published comprehensive final regulations in the **Federal Register** (TD 8476, 58 FR 33510) on the arbitrage investment restrictions and related provisions for tax-exempt bonds under sections 103, 148, 149, and 150, and, since that time, those final regulations have been amended in certain limited respects (the regulations issued in 1993 and the amendments thereto collectively are referred to as the Existing Regulations).

A notice of proposed rulemaking was published in the **Federal Register** (72 FR 54606; REG–106143–07) on September 26, 2007 (the 2007 Proposed Regulations). The 2007 Proposed Regulations proposed amendments to the Existing Regulations. Comments on the 2007 Proposed Regulations were received and a public hearing was held on January 30, 2008.

Another notice of proposed rulemaking was published in the **Federal Register** (78 FR 56842; REG–148659–07) on September 16, 2013 (the 2013 Proposed Regulations). The 2013 Proposed Regulations proposed additional amendments to the Existing Regulations (the 2007 Proposed Regulations and the 2013 Proposed Regulations collectively are referred to as the Proposed Regulations). Comments on the 2013 Proposed Regulations were received and a public hearing was held on February 5, 2014. The 2013 Proposed Regulations addressed the definition of issue price, among other topics.

A partial withdrawal of notice of proposed rulemaking and notice of proposed rulemaking was published in the **Federal Register** (80 FR 36301; REG–138526–14) on June 24, 2015, reproposing amendments to the definition of issue price. After consideration of all the comments, the remaining portions of the Proposed Regulations are adopted as amended by this Treasury decision (the Final Regulations).

Summary of Comments and Explanation of Revisions

This section discusses significant aspects of the comments received from the public regarding the Proposed Regulations. It also explains the revisions made in the Final Regulations.

1. Section 1.148–1 Definitions and Elections

A. Working Capital Expenditures and Replacement Proceeds Definition

i. Introduction

The Existing Regulations impose various restrictions on the use of tax-exempt bond financing for working capital expenditures. One way the Existing Regulations limit working capital financings is through the concept of replacement proceeds, a special category of funds included within the broad definition of gross proceeds to which the arbitrage investment restrictions under section 148 apply. Under the Existing Regulations, replacement proceeds arise if an issuer reasonably expects as of the issue date that: (1) The term of an issue will be longer than reasonably necessary for the governmental purposes of the issue; and (2) there will be available amounts (as defined in the Existing Regulations) for expenditures of the type being financed during the period the issue remains outstanding longer than necessary. The Existing Regulations provide certain safe harbors that prevent the creation of replacement proceeds.

ii. Modified Safe Harbor for Short-Term Working Capital Financings

The 2013 Proposed Regulations proposed to shorten the bond maturity necessary to satisfy the safe harbor for most short-term working capital financings from two years to 13 months to conform with the permitted temporary investment period for working capital expenditures under § 1.148–2(e)(3) and the administrative standard in Rev. Proc. 2002–31, 2002–1 CB 916. One commenter suggested extending this safe harbor to all working capital expenditure financings, rather than just those for restricted working capital expenditures (as defined in the Existing Regulations). This change, which would be implemented by deleting the word "restricted" from the safe harbor, would conform the safe harbor to the proposed extension of the temporary investment period for working capital expenditure financings in the 2013 Proposed Regulations (see section 2 of this preamble). The change also would benefit issuers by expanding the eligible purposes for short-term working capital financings to include extraordinary working capital expenditures. The Final Regulations adopt this comment.

iii. New Safe Harbor for Longer-Term Working Capital Financings

The 2013 Proposed Regulations proposed to add a new safe harbor that would prevent the creation of replacement proceeds for longer-term working capital financings to enhance certainty for issuers experiencing financial distress. This new safe harbor would require an issuer to: (1) Determine the first year in which it expects to have available amounts for working capital expenditures; (2) monitor for actual available amounts in each year beginning with the year it first expects to have such amounts; and (3) apply such available amounts in each year either to redeem or to invest in (or some combination of redeeming and investing in) certain tax-exempt bonds (eligible tax-exempt bonds). The safe harbor would require any amounts invested in eligible tax-exempt bonds to be invested (or reinvested) continuously, so long as the bonds using the safe harbor remain outstanding. In a narrow exception to this requirement, the safe harbor would permit such amounts not to be invested during a period of no more than 30 days per fiscal year in which such amounts are pending reinvestment. These requirements aimed to minimize the burden on the tax-exempt bond market.

The 2013 Proposed Regulations proposed to require an issuer to test for available amounts on the first day of its fiscal year and to apply such amounts to redeem or invest in eligible tax-exempt bonds within 90 days. Commenters sought greater flexibility with respect to the timing of testing the yearly available amounts and the use of such available amounts, based on considerations associated with potential unrepresentative cash positions on particular dates and potential expected short-term cash needs to finance governmental purposes.

To promote administrability and consistency, the Final Regulations retain the first day of the fiscal year as the required annual testing date for available amounts. The Treasury Department and the IRS have concluded that commenters' suggested solutions were complex in application and could produce a result that is unrepresentative of available amounts throughout the rest of the year. By requiring testing on the first day of the fiscal year, the Final Regulations provide an administrable testing date that mirrors the general rule for other replacement proceeds, under which an issuer also must determine its available amounts on the first day of every fiscal year during the period when its bonds are outstanding longer than reasonably necessary. To address commenters' concerns about the need for greater flexibility to address short-term cash flow deficits, the Final Regulations include several other revisions to this safe harbor for longer-term working capital financings. The Final Regulations reduce the total amount the issuer must apply to redeem or invest in eligible tax-exempt bonds to take into account the expenditure of available amounts during the first 90 days of the fiscal year and amounts held in bona fide debt service funds to the extent that those amounts are included in available amounts. Further, the Final Regulations allow an issuer to sell eligible tax-exempt bonds acquired pursuant to the safe harbor, provided that the proceeds of that sale are used within 30 days for a governmental purpose (working capital or otherwise) and the issuer has no other available amounts that it could use for that purpose. Alternatively, an issuer may sell such investments and use those amounts to redeem eligible tax-exempt bonds. Together, these amendments to the Proposed Regulations aim to address issuers' concerns about cash flows in a manner consistent with the existing restrictions on financing working capital expenditures with bonds outstanding longer than reasonably necessary.

Commenters also urged a small, but significant, change to the definition of "available amount" to address situations in which an issuer has proceeds of more than one bond issue that finance working capital expenditures. The definition of available amount in the Existing Regulations specifically excludes proceeds of "the" issue, but not proceeds of other issues. The use of this existing definition for the new safe harbor would have the effect of requiring an issuer to apply proceeds of other issues to redeem or invest in eligible tax-exempt bonds to meet the safe harbor rather than using such proceeds for the intended governmental purpose. The Final Regulations adopt this comment and revise the definition of available amount to exclude proceeds of "any" issue.

Commenters also recommended that the maximum amount required to be applied under the safe harbor to redeem or invest in eligible tax-exempt bonds be reduced from that proposed under the Proposed Regulations, which would set that maximum amount at an amount equal to the outstanding principal of the bonds subject to the safe harbor. The commenters' suggestion would reduce the maximum amount in the Proposed Regulations by the amount of certain other eligible tax-exempt bonds redeemed by the issuer. The Final Regulations do not adopt this recommendation. The Final Regulations retain the measure of the maximum amount required to be applied to redeem or invest in eligible tax-exempt bonds under this safe harbor at the outstanding principal amount of the relevant bonds to ensure that issuers redeem the bonds that are the subject of the safe harbor whenever possible.

The 2013 Proposed Regulations proposed to define eligible tax-exempt bonds for purposes of the new safe harbor to mean those tax-exempt bonds that are not subject to the alternative minimum tax (non-AMT tax-exempt bonds). Commenters requested clarification that eligible tax-exempt bonds for these investments also include certain State and Local Government Series securities (SLGS or, individually, a SLGS security), specifically Demand Deposit SLGS, and certain interests in regulated investment companies that invest in tax-exempt bonds and pass through to their owners income at least 95 percent of which is tax-exempt under section 103. The commenters noted that these two types of investments are included in the existing definition of tax-exempt bonds for purposes of the arbitrage investment restrictions. Commenters noted particularly that Demand Deposit SLGS are much easier to acquire than tax-exempt bonds and also have limited arbitrage potential. The purpose of the requirement to redeem or invest available amounts in certain tax-exempt bonds is to reduce the burden on the tax-exempt bond market of longer-term tax-exempt bonds issued for working capital expenditure financings. Although Demand Deposit SLGS are taxable obligations that do not reduce the burden on the tax-exempt bond market, the Treasury Department and the IRS recognize that including these as eligible tax-exempt bonds provides issuers a simple method of investing with little possibility of earning arbitrage. An interest in a regulated investment company that invests in non-AMT tax-exempt bonds is easier to buy and sell than a bond, and purchasing such an interest reduces the burden on the tax-exempt bond market. Thus, paralleling the existing definition of "tax-exempt bonds" applicable for purposes of the arbitrage investment restrictions, the Final Regulations clarify that eligible tax-exempt bonds include both Demand Deposit SLGS and an interest in a regulated investment company if at least 95% of the income to the holder is from non-AMT tax-exempt bonds.

Commenters also recommended that the Final Regulations expressly address the treatment of refunding bonds issued to refinance working capital expenditures for purposes of the new safe harbor. The Final Regulations provide that this safe harbor applies to refunding bonds in the same way that it applies to other bonds.

iv. Other Technical Changes to Working Capital Rules

The 2013 Proposed Regulations proposed to remove a restriction against financing a working capital reserve, a complex restriction that penalized those State and local governments that previously have maintained the least amount of reserves. Commenters supported this change. The Final Regulations adopt this change as proposed.

The 2013 Proposed Regulations proposed to expand the factors listed in an anti-abuse rule that may justify a bond maturity in excess of those in the safe harbors that prevent the creation of replacement proceeds to include extraordinary working capital items. The Treasury Department and the IRS received no unfavorable comments on this change. The Final Regulations adopt this change as proposed.

Commenters also raised several issues with respect to the working capital rules that the Treasury Department and the IRS have concluded are beyond the scope of this project and, therefore, did not address in the Final Regulations (see section 12 of this preamble).

2. Section 1.148–2 General Arbitrage Yield Restriction Rules—Temporary Period Spending Exception to Yield Restriction

The Existing Regulations provide various temporary periods for investment of proceeds of tax-exempt bonds without yield restriction. No express temporary period covers proceeds used for working capital expenditures that are not restricted working capital expenditures, such as extraordinary working capital items. The 2013 Proposed Regulations proposed to broaden the existing 13 month temporary period for restricted working capital expenditures to include all working capital expenditures. One commenter supported and none opposed this proposed change. The Final Regulations adopt this change as proposed.

3. Section 1.148–3 General Arbitrage Rebate Rules

A. Arbitrage Rebate Computation Credit

The Existing Regulations allow an issuer to take a credit against payment of arbitrage rebate to help offset the cost of computing rebate. The 2007 Proposed Regulations proposed to increase the credit and proposed to add an inflation adjustment to this credit, based on changes in the Consumer Price Index. The Treasury Department and the IRS received no comments on this change. The Final Regulations adopt this change as proposed.

B. Recovery of Overpayment of Rebate

Generally, under the Existing Regulations, an issuer computes the amount of arbitrage rebate that it owes under a method that future values payments and receipts on investments using the yield on the bond issue. Under this method, an arbitrage payment made on one computation date is future valued to the next computation date to determine the amount of arbitrage rebate owed on that subsequent computation date. The Existing Regulations provide that an issuer may recover an overpayment of arbitrage rebate with respect to an issue of tax-exempt bonds if the issuer establishes to the satisfaction of the Commissioner that an overpayment occurred. The Existing Regulations further define an overpayment as the excess of "the amount paid" to the United States for an issue under section 148 over the sum of the rebate amount for that issue as of the most recent computation date and all amounts that are otherwise required to be paid under section 148 as of the date the recovery is requested. Thus, even if the future value of the issuer's arbitrage rebate payment on a computation date, computed under the method for determining arbitrage rebate, is greater than the issuer's rebate amount on that date, an issuer is only entitled to a refund to the extent that the amount actually paid exceeds that rebate amount. The Existing Regulations limit the amount of the refund in this manner because the Treasury Department and the IRS were concerned about whether the IRS had statutory authority to pay interest on arbitrage rebate payments. To permit a refund in an amount calculated in whole or in part based upon a future value of the amount actually paid would effectively result in an interest payment on that payment.

An example in the Existing Regulations has caused confusion because it could be interpreted to mean that an issuer can receive a refund of a rebate payment when the future value of such rebate payment exceeds the rebate amount on the next computation date, even though the actual amount of the previous rebate payment does not exceed the rebate amount on that next computation date. The Proposed Regulations proposed to make a technical amendment to this example to conform this example to the intended scope of recovery of an overpayment of arbitrage rebate.

Commenters recommended broadening the scope of recovery of overpayments of arbitrage rebate to permit future valuing of the amount actually paid in computing the amount of the overpayment. Because the Treasury Department and the IRS have concluded that they lack the statutory authority to pay interest on overpayments of arbitrage rebate, the Final Regulations adopt this change as proposed.

4. Section 1.148–4 Yield on an Issue of Bonds

A. Joint Bond Yield Authority

The 2007 Proposed Regulations proposed to eliminate a provision in the Existing Regulations that permits computation of a single joint bond yield for two or more issues of qualified mortgage bonds or qualified student loan bonds. The 2007 Proposed Regulations solicited public comments on the feasibility of establishing generally applicable, objective standards for joint bond yield computations. Two commenters representing student loan lenders sought to retain this provision and described certain facts on which they believed that the joint computation of yield on student loan bonds might be based. However, in 2010, Congress terminated the Federal Family Education Loan Program (FFELP), effectively eliminating the program for which most student loan bonds were issued yet not affecting State supplemental student loan bond programs. Health Care and Education Reconciliation Act of 2010, Public Law 111–152, section 2201, 124 Stat 1029, 1074 (2010). Given the elimination of the FFELP and the highly factual nature of the requests for joint bond yield computations, the Final Regulations adopt the proposed elimination of the joint bond yield authority provision. In addition, however, in recognition of the administrative challenges for loan yield calculations in these portfolio loan programs, the Final Regulations extend the availability of yield reduction payments to include qualified student loans and qualified mortgage loans generally (see section 5.A. of this preamble).

B. Modification of Yield Computation for Yield-to-Call Premium Bonds

The 2007 Proposed Regulations proposed to simplify the yield calculations for certain callable bonds issued with significant amounts of bond premium (sometimes called yield-to-call bonds) to focus on the redemption date that results in the lowest yield on the particular premium bond (rather than the more complex existing focus on the lowest yield on the issue). The Treasury Department and the IRS did not receive any adverse comments regarding this proposed change, received one question that raised issues beyond the scope of this project (see section 12 of this preamble), and received a favorable comment regarding this proposed change. The Final Regulations adopt this change as proposed.

C. Integration of Hedges

The Existing Regulations permit issuers to compute the yield on an issue by taking into account payments under "qualified hedges." Generally, under the Existing Regulations, to be a qualified hedge, the hedge must be interest based, the terms of the hedge must correspond closely with the terms of the hedged bonds, the issuer must duly identify the hedge, and the hedge must contain no significant investment element. The Existing Regulations provide two ways in which a qualified hedge may be taken into account in computing yield on the issue, known commonly as "simple integration" and "super integration." In the case of simple integration all net payments and receipts on the qualified hedge and the hedged bonds are taken into account in determining the yield on the bonds, such that generally these hedged bonds are treated as variable yield bonds for arbitrage purposes. In the case of super integration, certain hedged bonds are treated as fixed yield bonds, and the qualified hedge must meet additional eligibility requirements beyond those for simple integration. These additional eligibility requirements focus on assuring that the terms of the hedge and the hedged bonds sufficiently correspond so as to warrant treating the hedged bonds as fixed yield bonds for arbitrage purposes.

i. Cost-of-Funds Hedges

The 2007 Proposed Regulations proposed to clarify that for purposes of applying the definition of periodic payment to determine whether a hedge has a significant investment element, a "specified index" (upon which periodic payments are based) is deemed to include payments under a cost-of-funds swap, thereby eliminating any doubt that cost-of-funds swaps can be qualified hedges. One commenter supported this clarification and none opposed it. One commenter proposed an amendment that is beyond the scope of this project (see section 12 of this preamble). The Final Regulations adopt this clarification as proposed.

ii. Taxable Index Hedges

One of the eligibility requirements for a qualified hedge under the Existing Regulations is that the hedge be interest based. For simple integration, one of the factors used in determining whether a variable-to-fixed interest rate hedge is interest based focuses on whether the variable interest rate on the hedged bonds and the floating interest rate on the hedge are "substantially the same, but not identical to" one another. For super integration purposes, such rates must be "reasonably expected to be substantially the same throughout the term of the hedge." Issuers have raised interpretative questions about how to apply these rules to hedges based on taxable interest rate indices (taxable indices) because interest rates on taxable indices generally do not correspond as closely as interest rates on tax-exempt market indices to actual market interest rates on tax-exempt, variable-rate bonds. These interpretative questions are particularly important for hedges based on taxable indices (taxable index hedges) used with advance refunding bond issues because issuers generally need to use the qualified hedge rules or some other regime to determine with certainty the yield on the tax-exempt advance refunding bonds to comply with the applicable arbitrage yield restrictions on investments in defeasance escrows.

The 2007 Proposed Regulations proposed to clarify that taxable index hedges are eligible for simple integration but also included detailed provisions that prescribed the correlation of interest rates needed for taxable index hedges to qualify for simple integration. Commenters generally criticized the proposed interest rate correlation test for simple integration of taxable index hedges as excessively complex or unworkable in various respects. One commenter urged elimination of this rate correlation test as unnecessary on the grounds that other proposed changes in the 2007 Proposed Regulations, including particularly the provision limiting the size and scope of hedges (described in section 4.C.iii of this preamble), were sufficient to control the parameters of taxable index hedges for purposes of simple integration. The Final Regulations clarify that a taxable index hedge is an interest based contract and adopt the comment to eliminate the interest rate correlation test for taxable index hedges. The Final Regulations also clarify that the difference between the interest rate used on the hedged bonds and that used to compute payments on the hedge will not prevent the hedge from being an interest based contract if the two interest rates are substantially similar.

The 2007 Proposed Regulations proposed to treat taxable index hedges as ineligible for super integration (except in the case of certain anticipatory hedges). Commenters requested an exception to this general prohibition on super integration for instances in which the variable rate on hedged bonds and the variable rate used to determine the hedge provider's payments to the issuer under the hedge are both based on a taxable index and are identical (or nearly so) to one another. The Final Regulations generally adopt the proposed rule that taxable index hedges are ineligible for super integration but, in response to the comments, add an exception for hedges in which the hedge provider's payments are based on an interest rate identical to that on the hedged bonds, because these hedges are perfect hedges that clearly result in a fixed yield. The Treasury Department and the IRS do not adopt commenters' request to permit super integration when the taxable-index-based interest rates for both the hedge and the hedged bonds are nearly identical but not perfectly so. The Treasury Department and the IRS have concluded that such a rule would add unnecessary complexity to the Final Regulations and that commenters' concerns are largely resolved by the extension in the Final Regulations of yield reduction payments to address basis differences between indexes used in hedges and underlying interest rates on hedged bonds in advance refundings (discussed elsewhere in this section of the preamble). The Final Regulations remove references to the particular taxable index called "LIBOR," without inference.

Commenters also sought other specific exceptions to the prohibition on super integration. One commenter noted that taxable index hedges cost less than hedges based on a tax-exempt index and recommended allowing super integration of taxable index hedges with mortgage revenue bonds to facilitate compliance with arbitrage restrictions on the yield of the financed mortgages. The Treasury Department and the IRS have concluded that the Final Regulations adequately address the commenter's concerns by permitting simple integration of taxable index hedges and by allowing yield reduction payments for qualified mortgage loans to facilitate compliance with the arbitrage investment restrictions (see section 5.A. of this preamble).

Other commenters suggested that the proposed prohibition on super integration of taxable index hedges should be prospective. This provision in the Final Regulations applies to bonds sold on or after the date that is 90 days after publication of the Final Regulations in the **Federal Register**, and does not apply to bonds sold prior to that date or to hedges on those bonds, regardless of when the issuer enters into such a hedge, unless the issuer avails itself of permissive application under § 1.148–11(l)(1) of these Final Regulations.

The 2007 Proposed Regulations also proposed to modify the yield reduction payment rules to permit issuers to make yield reduction payments on certain hedged advance refunding issues. This proposed provision effectively would allow yield reduction payments to cover the basis differences between the hedge and the hedged bonds in certain circumstances in which super integration was unavailable to address those basis differences, such as when taxable index swaps hedge the interest rate on advance refunding bonds. Commenters requested clarification of which bonds in the issue must be hedged for the issuer to be eligible to make yield reduction payments under the proposed provision. The Final Regulations eliminate the term "hedged bond issue" to clarify that the yield reduction payment is narrowly targeted to the portion of the issue that funds the defeasance escrow and otherwise adopt this change as proposed.

iii. Size and Scope of a Qualified Hedge

The 2007 Proposed Regulations proposed to add an express requirement that limits the size and scope of a qualified hedge to a level that is reasonably necessary to hedge the issuer's risk with respect to interest rate changes on the hedged bonds. Generally, the purpose of this proposed limitation is to clarify that certain leveraged hedges are not qualified hedges.

The 2007 Proposed Regulations proposed an example of a hedge of the appropriate size and scope, based on the principal amount and the reasonably expected interest requirements of the hedged bonds. One commenter suggested clarifying this size and scope limitation to provide more flexibility for anticipatory hedges that are entered into before the issuance of the hedged bonds. The Final Regulations adopt the size and scope limitation as proposed and clarify that this limitation applies to anticipatory hedges based on the reasonably expected terms of the hedged bonds to be issued.

iv. Correspondence of Payments for Simple Integration

The Existing Regulations require that, for a hedge to be a qualified hedge, the payments received by the issuer from the hedge provider under the contract correspond closely in time to either the specific payments being hedged on the hedged bonds or specific payments required to be made pursuant to the bond documents, regardless of the hedge, to a sinking fund, debt service fund, or similar fund maintained for the issue of which the hedged bond is a part. The 2007 Proposed Regulations proposed to treat payments as corresponding closely in time for this purpose if the payments were made within 60 calendar days of each other.

One commenter recommended increasing the permitted period for corresponding payments from 60 days to 90 days to accommodate a range of conventions used in the swap market. The Final Regulations adopt this comment.

v. Identification of Qualified Hedges

The 2007 Proposed Regulations proposed to extend the time for an issuer to identify a qualified hedge from three days to 15 days and to clarify that these are calendar days. The 2013 Proposed Regulations proposed to add a requirement that the identification of a qualified hedge include a certificate from the hedge provider containing certain information. Under the 2013 Proposed Regulations, one element required to be certified by the hedge provider is that the rate being paid by the bonds' issuer on the hedge is comparable to the rate that would be paid by a similarly situated issuer of taxable debt.

Several commenters recommended clarifying the date on which the 15-day period for identification of a hedge commences. The Final Regulations clarify that the date on which the 15-day period begins is the date on which the parties enter into a binding agreement to enter into the hedge (as distinguished from the closing date of the hedge or start date for payments on the hedge, if different).

Several commenters suggested permitting a party other than the issuer to identify the hedge on its books and records, but such changes are beyond the scope of this project (see section 12 of this preamble).

One commenter supported the requirement of a hedge provider's certificate. Two other commenters recommended eliminating this requirement as both unnecessary and burdensome in that it exceeds the requirements for other financial contracts related to tax-exempt bond yield. These commenters recommended that, if the pricing of the hedge is a concern, the regulations should provide other methods for establishing fair pricing. These commenters, however, acknowledged that many issuers already use some form of hedge provider's certificate and that the provisions in the Proposed Regulations reflect to some degree the standard provisions of such certificates. In the alternative, these commenters recommended that the hedge provider's certificate should focus on factual aspects of establishing a qualified hedge, rather than on legal conclusions, and offered specific suggestions to that effect. For example, these commenters suggested that issuers also should be required to demonstrate their efforts to establish that the hedge pricing does not include compensation for underwriting or other services, rather than to obtain a certification to that effect. These commenters further suggested that the representation in the Proposed Regulations that the terms of the hedge were agreed to between a willing buyer and a willing seller in a bona fide, arm's length transaction was unnecessary and required a legal conclusion outside the hedge provider's knowledge. Further, the commenters noted that comparable hedges on taxable debt with counterparties similar to State and local government issuers may be rare and recommended that issuers be required to establish that the rate on the hedge is comparable to the rate that the hedge provider would charge for a similar hedge with a counterparty similar to the issuer, but without a reference to debt obligations other than tax-exempt bonds.

The Final Regulations retain the requirement for a hedge provider's certificate because the hedge provider is uniquely positioned to validate pricing information needed to determine whether a hedge meets the requirements for being a qualified hedge. The Final Regulations retain the certification regarding an arm's length transaction between a willing buyer and a willing seller as one primarily based on fact and commonly obtained by issuers under current practices. In response to public comments, the Final Regulations amend the other required certifications to focus on factual aspects of the hedging transaction. In light of the evolving regulatory environment for swaps, however, the Final Regulations omit the certification that the issuer's rate on the hedge is comparable to the rate that would be paid by a similarly situated issuer of taxable debt. The Final Regulations reserve the authority for the Commissioner to add additional certifications in guidance published in the Internal Revenue Bulletin. In developing any future guidance, the Treasury Department and the IRS may look to the market for swaps on taxable debt and consider the availability of appropriate comparable rates.

vi. Accounting for Modifications and Terminations

a. Modifications and Terminations of Qualified Hedges

The Existing Regulations provide that a termination of a qualified hedge includes any sale or other disposition of the hedge by the issuer or the acquisition by the issuer of an offsetting hedge. The Existing Regulations further provide that a deemed termination of a qualified hedge occurs when the hedged bonds are redeemed, when the hedge ceases to be a qualified hedge, or when the modification or assignment of the hedge results in a deemed exchange under section 1001. The issuer takes termination payments resulting from a deemed or actual termination of an integrated hedge into account in computing yield on the bonds.

The 2013 Proposed Regulations proposed guidance on the treatment of modifications and terminations of qualified hedges. The 2013 Proposed Regulations also proposed to eliminate the ambiguous existing standard that triggered terminations for offsetting hedges. The 2013 Proposed Regulations proposed that a modification, including an actual modification, an acquisition of another hedge, or an assignment, results in a deemed termination of a hedge if the modification is material and results in a deemed disposition under section 1001.

The 2013 Proposed Regulations proposed to simplify the treatment of deemed terminations to provide that a material modification of a qualified hedge (that otherwise would result in a deemed termination) does not result in such a termination if the modified hedge is a qualified hedge. For this purpose, the 2013 Proposed Regulations proposed to require re-testing of the modified hedge for compliance with the requirements for a qualified hedge at the time of the modification, with adjustments. In doing this re-testing, the 2013 Proposed Regulations proposed to disregard any off-market value of the existing hedge at the time of modification. In addition, the 2013 Proposed Regulations proposed to measure the time period for identification of the modified hedge from the date of the modification. Finally, the 2013 Proposed Regulations proposed to omit the requirement for a hedge provider's certificate for the modified hedge. Commenters supported these changes. The Final Regulations adopt these proposed changes with one modification: Assignment of a hedge is no longer given as an example of a modification. The Final Regulations remove this example not because an assignment is not a modification, but because under the regulations under section 1001 an assignment generally does not result in a deemed exchange.

Commenters sought confirmation that the proposed rules for modifications of qualified hedges in the 2013 Proposed Regulations would replace an existing rule regarding such modifications that is set forth in the first sentence of section 5.1 of Notice 2008–41, 2008–1 CB 742. That sentence generally provides that a modification of a qualified hedge does not result in a deemed termination if the issuer does not expect the modification to change the yield on the hedged bonds over their remaining term by more than 0.25% and the modified hedge is integrated with the bonds. The Final Regulations provide comprehensive rules for determining when a modification of a qualified hedge results in a termination and, therefore, supersede the first sentence of section 5.1 of Notice 2008–41. The Final Regulations have no effect on the remainder of Notice 2008–41. See the section in this preamble entitled "Effect on Other Documents."

b. Continuations of Qualified Hedges in Refundings

The 2013 Proposed Regulations similarly proposed to simplify the treatment of a qualified hedge upon a refunding of the hedged bonds when no actual termination of the associated hedge occurs. If the hedge meets the requirements for a qualified hedge of the refunding bonds as of the issue date of the refunding bonds, with certain exceptions, the 2013 Proposed Regulations proposed to treat the hedge as continuing as a qualified hedge of the refunding bonds instead of being terminated. The Treasury Department and the IRS received favorable comments regarding this proposed change and one comment beyond the scope of this project (see section 12 of this preamble). The Final Regulations adopt this change as proposed.

The Existing Regulations provide special rules for terminations of super-integrated qualified hedges. A termination is disregarded and these special rules do not apply if, based on the facts and circumstances, the yield will not change. The 2013 Proposed Regulations proposed to apply these special rules to a modified super-integrated qualified hedge that is eligible for continued simple integration. Commenters sought clarification of the effect of this rule on super integration treatment. The purpose of this rule is to determine whether a modified super-integrated qualified hedge that continues to qualify for simple integration also would continue to qualify for super integration. The Final Regulations clarify that the applicable test is the test under the Existing Regulations for determining when to disregard terminations of super-integrated qualified hedges.

c. Terminations of Hedges at Fair Market Value

The Proposed Regulations proposed to modify the amounts taken into account for a deemed termination or actual termination of a qualified hedge. For an actual termination of a qualified hedge, the 2013 Proposed Regulations proposed to limit the amount of the hedge termination payment treated as made or received on the hedged bonds to an amount that is (i) no greater than the fair market value of the qualified hedge if paid by the issuer, and (ii) no less than the fair market value of the qualified hedge if received by the issuer. For a deemed termination of a qualified hedge, the 2013 Proposed Regulations proposed that the amount of the deemed termination payment is equal to the fair market value of the qualified hedge on the termination date.

Commenters recommended that, for an actual termination, the amount actually paid or received by the issuer in connection with the termination should be considered the fair market value of the qualified hedge. The commenters further recommended that, for a deemed termination, the issuer should be able to rely on bid-side quotations from the hedge provider and other providers for purposes of determining the fair market value of the qualified hedge on the termination date. The commenters indicated that, in all cases, the termination amounts, whether actual or deemed, reflect the "bid side" of the hedge market. Because of concerns about the pricing of a hedge in determining the amount to be paid as a termination payment, the Final Regulations retain the rule that the amount of a termination payment that may be taken into account for arbitrage purposes is the fair market value of the qualified hedge on the termination date. The Final Regulations simplify the Proposed Regulations by providing a uniform fair market value standard for both actual and deemed terminations. Although the Treasury Department and the IRS have concluded that bona fide market quotations may be used to support fair market value determinations, the Treasury Department and the IRS have concerns about further specification of particular types of market quotations for purposes of proper reflection of fair market value in various circumstances. Accordingly, the Final Regulations provide that the fair market value of a qualified hedge upon termination is based on all of the facts and circumstances.

5. Section 1.148–5 Yield and Valuation of Investments

A. Yield Reduction Payment Rules

For certain limited situations, the Existing Regulations permit payment of yield reduction payments to the United States to satisfy yield restriction requirements on certain investments. The 2007 Proposed Regulations proposed to expand these situations to permit issuers to make yield reduction payments to cover nonpurpose investments that an issuer purchases on a date when the issuer is unable to purchase SLGS because the Treasury Department has suspended sales of SLGS.

Three commenters favored the proposed expansion of the availability of yield reduction payments when SLGS are unavailable. One commenter expressed concern that the proposed provision may not address the circumstance in which a SLGS sale suspension is in effect when an issuer commits to purchase investments, but SLGS sales resume before settlement on that purchase. The Final Regulations clarify that an issuer is permitted to make yield reduction payments if it enters into an agreement to purchase investments on a date when SLGS sales are suspended.

The commenter also recommended extending the availability of yield reduction payments to cover the circumstance in which an issuer is uncertain whether the Treasury Department may suspend SLGS sales in the future after an issuer has subscribed to purchase SLGS and before the issuance of those SLGS. Although the Treasury Department reserves full discretion to manage its borrowings, including SLGS, it has been the Treasury Department's practice to honor all outstanding SLGS subscriptions received before it suspends SLGS sales. Accordingly, the Treasury Department and the IRS have concluded that yield reduction payments are not needed in this circumstance, and the Final Regulations do not adopt this comment.

In addition, in comments regarding the proposed elimination of the Commissioner's authority to compute a joint yield for two or more issues of qualified mortgage bonds or qualified student loan bonds, one commenter requested that issuers of qualified student loan bonds be permitted to make yield reduction payments for all qualified student loans, not just those under the FFELP. The Treasury Department and the IRS recognize that the ability to make yield reduction payments for qualified student loans and qualified mortgage loans would provide issuers an administrable alternative to the rarely used authority to compute a joint bond yield on issues of such bonds. The Treasury Department and the IRS also recognize that these portfolio loan programs have particular administrative challenges with loan yield compliance due to the large number of loans. Accordingly, in connection with the elimination of that joint bond yield authority under the Final Regulations, the Treasury Department and the IRS adopt this comment and expand the availability of yield reduction payments to include qualified student loans and qualified mortgage loans generally.

Commenters requested permission to make yield reduction payments in several other situations not provided in the Proposed Regulations. The Treasury Department and the IRS have concluded these amendments are beyond the scope of this project and, therefore, did not address them in the Final Regulations (see section 12 of this preamble).

B. Valuation of Investments

The Existing Regulations provide guidance on how to value investments allocated to an issue but leave some ambiguity about when the present value and the fair market value methods of valuation are permitted or required. The 2013 Proposed Regulations proposed to clarify that the fair market value method of valuation generally is required for any investment on the date the investment is first allocated to an issue or first ceases to be allocated to an issue as a consequence of a deemed acquisition or a deemed disposition.

The 2013 Proposed Regulations did not propose to distinguish between purpose investments and nonpurpose investments. One commenter urged clarification that purpose investments must be valued at present value at all times. This commenter further suggested that the rules clearly distinguish between purpose and nonpurpose investments. The Treasury Department and the IRS recognize that purpose investments are special investments that are intended to pass on the benefits of the lower borrowing costs of tax-exempt bond financings to eligible beneficiaries of the particular authorized tax-exempt bond program (for example, eligible first-time low and moderate income homebuyers who receive qualified mortgage loans financed with qualified mortgage bonds). Accordingly, the Final Regulations adopt these comments.

The Existing Regulations include an exception to the mandatory fair market value rule for reallocations of investments between tax-exempt bond issues as a result of the transferred proceeds rule under § 1.148–9(b) or the universal cap rule under § 1.148–6(b)(2). To remove a disincentive against retiring tax-exempt bonds with taxable bonds when the fair market value of the investments allocable to the tax-exempt bonds would cause investment yield to exceed the tax-exempt bond yield, the 2013 Proposed Regulations proposed to change this exception to the fair market value rule to require that only the issue from which the investment is allocated consist of tax-exempt bonds.

Commenters generally viewed this change favorably. One commenter suggested clarifying an ambiguity in the Existing Regulations regarding when a reallocation from one issue to another occurs "as a result of" the universal cap rule. The Final Regulations clarify that the exception to fair market valuation for investments reallocated as a result of the universal cap rule applies narrowly to circumstances in which investments are deallocated from an issue as a result of the universal cap rule and are reallocated to another issue without further action as a result of an existing pledge of the investment to the other issue (for example, a pledge of investments to multiple bond issues secured by common security under a master indenture). In these circumstances, the issuer has not structured the transaction to benefit from the market valuation of the nonpurpose investments.

This commenter also suggested providing a safe harbor for when an issuer may liquidate escrow investments after a taxable refunding without concern that the Commissioner would exercise his anti-abuse authority to value the investment at fair market value. This comment is beyond the scope of this project (see section 12 of this preamble).

Commenters also recommended broad interpretations or expansions of the exception to fair market valuation for investments reallocated as a result of the universal cap rule to cover various types of transactions involving investments that secure a tax-exempt bond issue and that are liquidated at a profit so long as the investment proceeds of the liquidated investments are used to retire tax-exempt bonds early. In one representative scenario, an issuer using funds other than tax-exempt bond proceeds created a yield-restricted escrow fund to defease tax-exempt bonds for which it retained the call rights. If the fair market value of investments in the escrow appreciated, the issuer would issue taxable bonds and use a portion of the proceeds of the taxable bonds to redeem the tax-exempt bonds. Applying universal cap principles, the investments would cease to be allocated to the tax-exempt bonds when the tax-exempt bonds were redeemed and the investments would be allocated to the taxable refunding bonds not as a result of a pre-existing pledge but as replacement proceeds. If the investments were valued at fair market value, the yield on the escrow would exceed the yield on the tax-exempt bonds resulting in arbitrage bonds. The bonds would not be arbitrage bonds if the regulations permitted these escrow investments to be valued at present value at the time of the refunding. Another scenario for which the commenters requested using the present value of investments rather than fair market value involves liquidating the appreciated investments in a defeasance escrow to redeem the tax-exempt issue rather than issuing taxable refunding bonds.

The Treasury Department and the IRS have concerns about potential unintended consequences and circumvention of arbitrage investment restrictions in these and other similar transactions. In the first scenario, the issuer has structured the transaction specifically to benefit from an appreciation of the escrow investments in a manner inconsistent with the arbitrage restrictions. In the second scenario, the use of present value would allow the issuer to realize the investment return in contravention of the statutory requirements to take into account any gain or loss on the disposition of a nonpurpose investment. Accordingly, except for the technical clarification of the limited application of universal cap deallocations under this rule, the Final Regulations adopt as proposed the revised exception to fair market valuation for investments reallocated as a result of the transferred proceeds rule or the universal cap rule.

C. Fair Market Value of Treasury Obligations

The Existing Regulations provide a general rule that the fair market value of an investment is the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm's length transaction. For United States Treasury obligations that are traded on the open market, trading values at the time of trades are used to establish fair market values. The Existing Regulations further provide a special rule, aimed primarily at non-transferrable, non-tradable SLGS, that the fair market value of a United States Treasury obligation that is purchased directly from the United States Treasury is its purchase price. This special rule properly indicates that the fair market value of a United States Treasury obligation that is purchased directly from the United States is its purchase price on the original purchase date, but this provision is ambiguous regarding how to determine the fair market value of such an obligation on dates after the original purchase date.

The 2013 Proposed Regulations proposed to clarify that, on the original purchase date only, the fair market value of such an obligation, including a SLGS security, is its purchase price. The 2013 Proposed Regulations further proposed that, on any date other than the original purchase date, the fair market value of a SLGS security is its redemption price. One commenter objected to the valuation of a SLGS security at other than its purchase price upon a deemed acquisition or deemed disposition. United States Treasury obligations other than SLGS may be purchased and sold on the open market. SLGS, however, are nontransferable obligations that may be purchased or redeemed only from the United States Treasury. For this reason, the 2013 Proposed Regulations proposed that the fair market value of a SLGS security on any date other than its purchase date is the redemption price determined by the United States Treasury under applicable regulations for the SLGS program. The Final Regulations adopt this change as proposed.

D. Modified Fair Market Value Safe Harbor for Guaranteed Investment Contracts

The Existing Regulations provide a safe harbor for establishing the fair market value of a guaranteed investment contract. This safe harbor generally relies on a prescribed bidding procedure, including requirements that all bidders be given an equal opportunity to bid with no opportunity to review other bids before providing a bid (that is, the "no last look" rule) and that the bid specifications be provided to prospective bidders "in writing." The 2007 Proposed Regulations proposed to amend this safe harbor to accommodate electronic bidding procedures by: (1) Permitting bid specifications to be sent electronically over the Internet or by fax; and (2) providing that no impermissible last look occurs if in effect all bidders have an equal opportunity for a last look. One commenter noted an ambiguity in this proposed change. In response to this comment, the Final Regulations clarify that bids must be in writing and timely disseminated and that a writing may be in electronic form and may be disseminated by fax, email, an Internet-based Web site, or other electronic medium that is similar to an Internet-based Web site and regularly used to post bid specifications. The Final Regulations otherwise adopt this change as proposed.

E. External Commingled Investment Funds

The Existing Regulations provide certain preferential rules for the treatment of administrative costs of certain widely held external commingled funds. Under the Existing Regulations, a fund is treated as widely held if the fund, on average, has more than 15 unrelated investors and each investor maintains a prescribed minimum average investment in the fund. The 2007 Proposed Regulations proposed to allow additional smaller investors to invest in an external commingled fund without disqualifying the fund so long as at least 16 unrelated investors each maintain the required minimum average investment in the fund.

One commenter suggested that the regulations should require that a specified percentage of the unrelated investors hold a specified percentage of the daily average value of the fund's assets. The Final Regulations do not adopt this comment, because it is inconsistent with the purpose of the proposed change to enable a fund to become even more widely held by accommodating an unlimited number of small investors without restriction so long as at least 16 unrelated investors each maintain the required minimum average investment in the fund. The commenter also suggested other amendments beyond the scope of this project (see section 12 of this preamble). The Final Regulations adopt this change as proposed.

6. Section 1.148–8 Small Issuer Exception to Rebate Requirement—Pooled Bonds

The 2007 Proposed Regulations proposed to amend the Existing Regulations to conform to changes made to section 148(f)(4)(D) by section 508 of the Tax Increase Prevention and Reconciliation Act of 2005, Public Law 109–222, 120 Stat. 345, which eliminated a rule that permitted a pool bond issuer to ignore its pool bond issue in computing whether it had exceeded its $5 million limit for purposes of the small issuer rebate exception. The Treasury Department and the IRS received no comments regarding this proposed change. The Final Regulations adopt this change as proposed.

7. Section 1.148–10 Anti-Abuse Rules and Authority of Commissioner

The 2013 Proposed Regulations proposed to amend the Commissioner's authority to depart from the arbitrage regulations when an issuer enters into a transaction for a principal purpose of obtaining a material financial advantage based on the difference between tax-exempt and taxable interest rates in a manner inconsistent with the purposes of section 148, from that "necessary to clearly reflect the economic substance of the transaction" to that "necessary to prevent such financial advantage." The 2013 Proposed Regulations proposed to remove the references to "economic substance" to prevent confusion of the Commissioner's authority under this arbitrage anti-abuse rule with the economic substance doctrine under general federal tax principles. No substantive change was intended.

Commenters suggested that this proposed change would give unduly broad discretion to the Commissioner and would reduce certainty of the applicability of published guidance. These commenters recommended limiting the Commissioner's authority to that necessary "to reflect the economics of the transaction to prevent such financial advantage." The Final Regulations adopt this comment.

8. Section 1.148–11 Transition Provision for Certain Guarantee Funds

The Existing Regulations include a transition rule that allows certain State perpetual trust funds (for example, certain State permanent school funds) to pledge funds to guarantee tax-exempt bonds without resulting in arbitrage-restricted replacement proceeds. The 2013 Proposed Regulations proposed to include changes proposed in Notice 2010–5, 2010–2 IRB 256, to increase the amount of tax-exempt bonds that such funds could guarantee under this special rule. Further, in response to comments received on Notice 2010–5, the 2013 Proposed Regulations proposed to extend this special rule to cover certain tax-exempt bonds issued to finance public charter schools, which may be 501(c)(3) organizations. The Treasury Department and the IRS received no comments on these proposed changes. The Final Regulations adopt these changes as proposed.

9. Section 1.150–1 Definitions

A. Definition of Tax-Advantaged Bonds

The 2013 Proposed Regulations proposed a new definition of tax-advantaged bonds. The Treasury Department and the IRS received no comments regarding this new definition. The Final Regulations substitute "tax benefit" for "subsidy" in describing tax-advantaged bonds but otherwise adopt the definition as proposed.

B. Definition of Issue

The Existing Regulations provide that tax-exempt bonds and taxable bonds are not part of the same issue. The 2013 Proposed Regulations proposed to clarify that taxable tax-advantaged bonds and other taxable bonds are part of different issues and that different types of tax-advantaged bonds are parts of different issues. The Treasury Department and IRS received one comment supporting this proposed change and no opposing comments. The Final Regulations adopt this change as proposed.

C. Definition and Treatment of Grants

The 2013 Proposed Regulations proposed that the existing definition of grant for arbitrage purposes applies for purposes of other tax-exempt bond provisions. The 2013 Proposed Regulations also proposed to clarify that the character and nature of a grantee's use of proceeds generally is taken into account in determining whether arbitrage and other applicable requirements of the issue are met.

Commenters requested confirmation that the proposed rule preserves the existing rule that an issuer spends proceeds used for grants for purposes of the arbitrage investment restrictions when the issuer makes the grant to an unrelated third-party. Thus, for example, if the grantee uses the grant to reimburse its expenditures, the reimbursement allocation rules do not apply. The 2013 Proposed Regulations expressly proposed the special grant expenditure rule for arbitrage purposes as an example of a specific exception to the proposed general rule. Commenters also suggested other amendments to the rules for grants that are beyond the scope of this project (see section 12 of this preamble). The Final Regulations adopt these changes as proposed.

10. Section 1.141–15 Effective Dates

The Final Regulations include certain technical amendments to final regulations (TD 9741) that were published in the **Federal Register** on Tuesday, October 27, 2015 (80 FR 65637). Those final regulations provide guidance on allocation and accounting rules and certain remedial actions for purposes of the private activity bond restrictions under section 141 of the Internal Revenue Code that apply to tax-exempt bonds issued by State and local governments.

The technical amendments amend the applicability dates to include a transition rule for refunding bonds, provided that the weighted average maturity of the refunding bonds is no longer than that of the refunded bonds or, in the case of certain short-term obligations, no longer than 120 percent of the weighted average reasonably expected economic life of the facilities financed. The technical amendments also clarify permissive application of certain provisions to outstanding bonds.

11. Revenue Procedure 97–15

Revenue Procedure 97–15, 1997–1 CB 635, provides a program under which an issuer of tax-exempt bonds may request a closing agreement with respect to outstanding bonds to prevent the interest on those bonds from being includible in gross income of the bondholders or being treated as an item of tax preference for purposes of the alternative minimum tax as a result of an action subsequent to the issue date of the bonds that causes the bonds to fail to meet certain requirements relating to the use of proceeds. Notice 2008–31, 2008–1 CB 592, also provides a voluntary closing agreement program for tax-exempt bonds and tax credit bonds. The scope of the violations that can be remedied under Notice 2008–31 is broader than that under Rev. Proc. 97–15. As a result, this Treasury Decision obsoletes Rev. Proc. 97–15.

12. Comments Beyond the Scope of the Proposed and Final Regulations

Commenters submitted additional suggestions for revisions to the Existing Regulations. These suggestions include: (1) Adding a new safe harbor to prevent the creation of replacement proceeds specifically for grants and extraordinary working capital financings (and redefining ‘‘extraordinary working capital’’); (2) adding new rules for using proceeds to fund working capital reserves; (3) providing how an issuer should allocate certain expenses related to yield-to-call premium bonds for computing yield on the issue; (4) revising the rules for determining if an interest rate cap contains a significant investment element; (5) permitting a conduit borrower to identify a qualified hedge on its books and records; (6) providing a safe harbor for when an issuer may liquidate escrow investments for purposes of valuation of investments; (7) revising the proceeds-spent-last expenditure rule to permit financing of certain payments on hedges; (8) permitting yield reduction payments on investments purchased to defease zero-coupon bonds; (9) providing yield reduction payments for a basis difference under circumstances other than those in the Proposed Regulations; (10) exempting external comingled funds that are operated by a government on a not-for-profit basis from the requirements for administrative costs of such funds to be included in qualified administrative costs of investments; (11) establishing an economic life for grants based on the benefit of the grant to the grantor; (12) providing rules for grant repayments; and (13) explaining how certain rules in the Proposed Regulations would apply to very specific facts. These comments identify issues that are beyond the scope of the Proposed Regulations and thus are not addressed in the Final Regulations.

Applicability Dates

The Final Regulations generally apply to bonds that are sold on or after October 17, 2016. Certain provisions related to hedges on bonds apply to hedges that are entered into or modified on or after October 17, 2016. The Final Regulations also permit issuers to apply certain of the amended provisions to bonds sold before October 17, 2016. For specific dates of applicability, see §§ 1.141–15, 1.148–11, 1.150–1, and 1.150–2.

Effect on Other Documents

As of July 18, 2016, Revenue Procedures 95–47 and 97–15 are obsoleted and Notice 2008–41 is modified.

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory impact assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that the collection of information in these regulations is required for hedging transactions entered into primarily between larger State and local governments and large counterparties. It is also based on the fact that the estimated recordkeeping burden for all issuers and counterparties is relatively small and the reasonable costs of that burden do not constitute a significant economic impact. Accordingly, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, the proposed regulations preceding these final regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business. No comments were received.

Drafting Information

The principal authors of these regulations are Johanna Som de Cerff, Spence Hanemann, and Lewis Bell of the Office of Associate Chief Counsel (Financial Institutions and Products), IRS. However, other personnel from the Treasury Department and the IRS participated in their development.

Availability of IRS Documents

IRS revenue procedures and notices cited in these final regulations are made available by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by removing the entry for § 1.148–6 to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 1.141–0 is amended by:

■ 1. Revising the entry for § 1.141–15(l)(2).

■ 2. Adding an entry for § 1.141–15(l)(3).
■ 3. Adding an entry for § 1.141–15(n).

The additions and revisions read as follows:

§ 1.141–0 Table of contents.

* * * * *

§ 1.141–15 Effective/applicability dates.

* * * * *

(l) * * *

(2) Refunding bonds.

(3) Permissive application.

* * * * *

(n) Effective/applicability dates for certain regulations relating to certain definitions.

* * * * *

■ **Par. 3.** Section 1.141–1 is amended by revising paragraph (a) to read as follows:

§ 1.141–1 Definitions and rules of general application.

(a) *In general.* For purposes of §§ 1.141–0 through 1.141–16, the following definitions and rules apply: The definitions in this section, the definitions in § 1.150–1, the definition of placed in service in § 1.150–2(c), the definition of reasonably required reserve or replacement fund in § 1.148–2(f), and the definitions in § 1.148–1 of bond year, commingled fund, fixed yield issue, higher yielding investments, investment, investment proceeds, issue price, issuer, nonpurpose investment, purpose investment, qualified guarantee, qualified hedge, reasonable expectations or reasonableness, rebate amount, replacement proceeds, sale proceeds, variable yield issue and yield.

* * * * *

■ **Par. 4.** Section 1.141–15 is amended by:
■ 1. Redesignating paragraph (l)(2) as (l)(3).
■ 2. Adding new paragraph (l)(2).
■ 3. Amending the first sentence of redesignated paragraph (l)(3) by adding "Except as otherwise provided in this section," at the beginning of the sentence and removing the word "Issuers" and adding the word "issuers" in its place.
■ 4. Adding paragraph (n).

The additions and revisions read as follows:

§ 1.141–15 Effective/applicability dates.

* * * * *

(l) * * *

(2) *Refunding bonds.* Except as otherwise provided in this section, §§ 1.141–1(e), 1.141–3(g)(2)(v), 1.141–6, and 1.145–2(b)(4), (5), and (c)(2) do not apply to any bonds sold on or after January 25, 2016, to refund a bond to which these sections do not apply, provided that the weighted average maturity of the refunding bonds is no longer than—

(i) The remaining weighted average maturity of the refunded bonds; or

(ii) In the case of a short-term obligation that the issuer reasonably expects to refund with a long-term financing (such as a bond anticipation note), 120 percent of the weighted average reasonably expected economic life of the facilities financed.

* * * * *

(n) *Effective/applicability dates for certain regulations relating to certain definitions.* § 1.141–1(a) applies to bonds that are sold on or after October 17, 2016.

■ **Par. 5.** Section 1.148–0(c) is amended by:
■ 1. Revising the entry for § 1.148–2(e)(3).
■ 2. Adding an entry for § 1.148–3(d)(4).
■ 3. Revising the entry for § 1.148–5(d)(2).
■ 4. Revising the entry for § 1.148–8(d).
■ 5. Removing the entries for § 1.148–8(d)(1) and (2).
■ 6. Revising the entry for § 1.148–10(e).
■ 7. Adding entries for § 1.148–11(k).
■ 8. Revising the entries for § 1.148–11(l).

The revisions and additions read as follows:

§ 1.148–0 Scope and table of contents.

* * * * *

(c) * * *

§ 1.148–2 General arbitrage yield restriction rules.

* * * * *

(e) * * *

(3) Temporary period for working capital expenditures.

* * * * *

§ 1.148–3 General arbitrage rebate rules.

* * * * *

(d) * * *

(4) Cost-of-living adjustment.

* * * * *

§ 1.148–5 Yield and valuation of investments.

* * * * *

(d) * * *

(2) Mandatory valuation of certain yield restricted investments at present value.

* * * * *

§ 1.148–8 Small issuer exception to rebate requirement.

* * * * *

(d) Pooled financings—treatment of conduit borrowers.

* * * * *

§ 1.148–10 Anti-abuse rules and authority of Commissioner.

* * * * *

(e) Authority of the Commissioner to prevent transactions that are inconsistent with the purpose of the arbitrage investment restrictions.

* * * * *

§ 1.148–11 Effective/applicability dates.

* * * * *

(k) Certain arbitrage guidance updates.

(1) In general.

(2) Valuation of investments in refunding transactions.

(3) Rebate overpayment recovery.

(4) Hedge identification.

(5) Hedge modifications and termination.

(6) Small issuer exception to rebate requirement for conduit borrowers of pooled financings.

(l) Permissive application of certain arbitrage updates.

(1) In general.

(2) Computation credit.

(3) Yield reduction payments.

(4) External commingled funds.

■ **Par. 6.** Section 1.148–1 is amended by:
■ 1. Revising paragraph (c)(4)(i)(B)(*1*).
■ 2. Removing the "or" at the end of paragraph (c)(4)(i)(B)(*2*).
■ 3. Removing the period at the end of paragraph (c)(4)(i)(B)(*3*) and adding in its place a semicolon and the word "or".
■ 4. Adding paragraph (c)(4)(i)(B)(*4*).
■ 5. Revising paragraph (c)(4)(ii).

The revisions and additions read as follows:

§ 1.148–1 Definitions and elections.

* * * * *

(c) * * *

(4) * * *

(i) * * *

(B) * * *

(*1*) For the portion of an issue that is to be used to finance working capital expenditures, if that portion is not outstanding longer than the temporary period under § 1.148–2(e)(3) for which the proceeds qualify;

* * * * *

(*4*) For the portion of an issue (including a refunding issue) that is to be used to finance working capital expenditures, if that portion satisfies paragraph (c)(4)(ii) of this section.

(ii) *Safe harbor for longer-term working capital financings.* A portion of an issue used to finance working capital expenditures satisfies this paragraph (c)(4)(ii) if the issuer meets the requirements of paragraphs (c)(4)(ii)(A) through (E) of this section.

(A) *Determine first testing year.* On the issue date, the issuer must determine the first fiscal year following the applicable temporary period under § 1.148–2(e) in which it reasonably expects to have available amounts (first testing year), but in no event can the first day of the first testing year be later than five years after the issue date.

(B) *Application of available amount to reduce burden on tax-exempt bond market.* Beginning with the first testing year and for each subsequent fiscal year for which the portion of the issue that is the subject of this safe harbor remains outstanding, the issuer must determine the available amount as of the first day of each fiscal year. Then, except as provided in paragraph (c)(4)(ii)(D) of this section, within the first 90 days of that fiscal year, the issuer must apply that amount (or if less, the available amount on the date of the required redemption or investment) to redeem or to invest in eligible tax-exempt bonds (as defined in paragraph (c)(4)(ii)(E) of this section). For this purpose, available amounts in a bona fide debt service fund are not treated as available amounts.

(C) *Continuous investment requirement.* Except as provided in this paragraph (c)(4)(ii)(C), any amounts invested in eligible tax-exempt bonds under paragraph (c)(4)(ii)(B) of this section must be invested continuously in such tax-exempt bonds to the extent provided in paragraph (c)(4)(ii)(D) of this section.

(*1*) *Exception for reinvestment period.* Amounts previously invested in eligible tax-exempt bonds under paragraph (c)(4)(ii)(B) of this section that are held for not more than 30 days in a fiscal year pending reinvestment in eligible tax-exempt bonds are treated as invested in eligible tax-exempt bonds.

(*2*) *Limited use of invested amounts.* An issuer may spend amounts previously invested in eligible tax-exempt bonds under paragraph (c)(4)(ii)(B) of this section within 30 days of the date on which they cease to be so invested to make expenditures for a governmental purpose on any date on which the issuer has no other available amounts for such purpose, or to redeem eligible tax-exempt bonds.

(D) *Cap on applied or invested amounts.* The maximum amount that an issuer is required to apply under paragraph (c)(4)(ii)(B) of this section or to invest continuously under paragraph (c)(4)(ii)(C) of this section with respect to the portion of an issue that is the subject of this safe harbor is the outstanding principal amount of such portion. For purposes of this cap, an issuer receives credit towards its requirement to invest available amounts in eligible tax-exempt bonds for amounts previously invested under paragraph (c)(4)(ii)(B) of this section that remain continuously invested under paragraph (c)(4)(ii)(C) of this section.

(E) *Definition of eligible tax-exempt bonds.* For purposes of paragraph (c)(4)(ii) of this section, *eligible tax-exempt bonds* means any of the following:

(*1*) A bond the interest on which is excludable from gross income under section 103 and that is not a specified private activity bond (as defined in section 57(a)(5)(C)) subject to the alternative minimum tax;

(*2*) An interest in a regulated investment company to the extent that at least 95 percent of the income to the holder of the interest is interest on a bond that is excludable from gross income under section 103 and that is not interest on a specified private activity bond (as defined in section 57(a)(5)(C)) subject to the alternative minimum tax; or

(*3*) A certificate of indebtedness issued by the United States Treasury pursuant to the Demand Deposit State and Local Government Series program described in 31 CFR part 344.

* * * * *

■ **Par. 7.** Section 1.148–2 is amended by revising the heading of paragraph (e)(3) and revising paragraph (e)(3)(i) to read as follows:

§ 1.148–2 General arbitrage yield restriction rules.

* * * * *

(e) * * *

(3) *Temporary period for working capital expenditures*—(i) *General rule.* The proceeds of an issue that are reasonably expected to be allocated to working capital expenditures within 13 months after the issue date qualify for a temporary period of 13 months beginning on the issue date. Paragraph (e)(2) of this section contains additional temporary period rules for certain working capital expenditures that are treated as part of a capital project.

* * * * *

■ **Par. 8.** Section 1.148–3 is amended by:

■ 1. Revising paragraph (d)(1)(iv).

■ 2. Adding paragraph (d)(4).

■ 3. Revising *Example 2(iii)(D)* of paragraph (j).

The revisions and addition read as follows:

§ 1.148–3 General arbitrage rebate rules.

* * * * *

(d) * * *

(1) * * *

(iv) On the last day of each bond year during which there are amounts allocated to gross proceeds of an issue that are subject to the rebate requirement, and on the final maturity date, a computation credit of $1,400 for any bond year ending in 2007 and, for bond years ending after 2007, a computation credit in the amount determined under paragraph (d)(4) of this section; and

* * * * *

(4) *Cost-of-living adjustment.* For any calendar year after 2007, the $1,400 computation credit set forth in paragraph (d)(1)(iv) of this section shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such year, as modified by this paragraph (d)(4). In applying section 1(f)(3) to determine this cost-of-living adjustment, the reference to "calendar year 1992" in section 1(f)(3)(B) shall be changed to "calendar year 2006." If any such increase determined under this paragraph (d)(4) is not a multiple of $10, such increase shall be rounded to the nearest multiple thereof.

* * * * *

(j) * * *

Example 2. * * *

(iii) * * *

(D) If the yield during the second computation period were, instead, 7.0000 percent, the rebate amount computed as of July 1, 2004, would be $1,320,891. The future value of the payment made on July 1, 1999, would be $1,471,007. Although the future value of the payment made on July 1, 1999 ($1,471,007), exceeds the rebate amount computed as of July 1, 2004 ($1,320,891), § 1.148–3(i) limits the amount recoverable as a defined overpayment of rebate under section 148 to the excess of the total "amount paid" over the sum of the amount determined under the future value method to be the "rebate amount" as of the most recent computation date and all other amounts that are otherwise required to be paid under section 148 as of the date the recovery is requested. Because the total amount that the issuer paid on July 1, 1999 ($1,042,824.60), does not exceed the rebate amount as of July 1, 2004 ($1,320,891), the issuer would not be entitled to recover any overpayment of rebate in this case.

* * * * *

■ **Par. 9.** Section 1.148–4 is amended by:

■ 1. Revising paragraph (a).

■ 2. Revising paragraph (b)(3)(i).

■ 3. Adding two sentences at the end of paragraph (h)(2)(ii)(A).

■ 4. Revising the heading and introductory text of paragraph (h)(2)(v).

■ 5. Revising the last sentence of paragraph (h)(2)(v)(B).

■ 6. Adding a sentence at the end of paragraph (h)(2)(vi).

■ 7. Revising paragraph (h)(2)(viii).

- 8. Revising paragraph (h)(3)(iv)(A).
- 9. Redesignating paragraphs (h)(3)(iv)(B) through (E) as paragraphs (h)(3)(iv)(E) through (H) respectively.
- 10. Adding new paragraphs (h)(3)(iv)(B), (C), and (D).
- 11. Revising newly redesignated paragraph (h)(3)(iv)(E).
- 12. Revising the first sentence in newly redesignated paragraph (h)(3)(iv)(F).
- 13. Revising newly redesignated paragraph (h)(3)(iv)(G).
- 14. Revising the first sentence in newly redesignated paragraph (h)(3)(iv)(H).
- 15. Adding a sentence at the end of paragraph (h)(4)(i)(C).
- 16. Adding paragraphs (h)(4)(i)(C)(*1*) and (*2*).
- 17. Adding paragraph (h)(4)(iv).

The revisions and additions read as follows:

§ 1.148–4 Yield on an issue of bonds.

(a) *In general.* The yield on an issue of bonds is used to apply investment yield restrictions under section 148(a) and to compute rebate liability under section 148(f). Yield is computed under the economic accrual method using any consistently applied compounding interval of not more than one year. A short first compounding interval and a short last compounding interval may be used. Yield is expressed as an annual percentage rate that is calculated to at least four decimal places (for example, 5.2525 percent). Other reasonable, standard financial conventions, such as the 30 days per month/360 days per year convention, may be used in computing yield but must be consistently applied. The yield on an issue that would be a purpose investment (absent section 148(b)(3)(A)) is equal to the yield on the conduit financing issue that financed that purpose investment.

(b) * * *

(3) *Yield on certain fixed yield bonds subject to optional early redemption*—(i) *In general.* If a fixed yield bond is subject to optional early redemption and is described in paragraph (b)(3)(ii) of this section, the yield on the issue containing the bond is computed by treating the bond as redeemed at its stated redemption price on the optional redemption date that would produce the lowest yield on that bond.

* * * * *

(h) * * *

(2) * * *

(ii) * * *

(A) * * * Solely for purposes of determining if a hedge is a qualified hedge under this section, payments that an issuer receives pursuant to the terms of a hedge that are equal to the issuer's cost of funds are treated as periodic payments under § 1.446–3 without regard to whether the payments are calculated by reference to a "specified index" described in § 1.446–3(c)(2). Accordingly, a hedge does not have a significant investment element under this paragraph (h)(2)(ii)(A) solely because an issuer receives payments pursuant to the terms of a hedge that are computed to be equal to the issuer's cost of funds, such as the issuer's actual market-based tax-exempt variable interest rate on its bonds.

* * * * *

(v) *Interest-based contract and size and scope of hedge.* The contract is primarily interest-based (for example, a hedge based on a debt index, including a tax-exempt debt index or a taxable debt index, rather than an equity index). In addition, the size and scope of the hedge under the contract is limited to that which is reasonably necessary to hedge the issuer's risk with respect to interest rate changes on the hedged bonds. For example, a contract is limited to hedging an issuer's risk with respect to interest rate changes on the hedged bonds if the hedge is based on the principal amount and the reasonably expected interest payments of the hedged bonds. For anticipatory hedges under paragraph (h)(5) of this section, the size and scope limitation applies based on the reasonably expected terms of the hedged bonds to be issued. A contract is not primarily interest based unless—

* * * * *

(B) * * * For this purpose, differences that would not prevent the resulting bond from being substantially similar to another type of bond include: a difference between the interest rate used to compute payments on the hedged bond and the interest rate used to compute payments on the hedge where one interest rate is substantially similar to the other; the difference resulting from the payment of a fixed premium for a cap (for example, payments for a cap that are made in other than level installments); and the difference resulting from the allocation of a termination payment where the termination was not expected as of the date the contract was entered into.

(vi) * * * For this purpose, such payments will be treated as corresponding closely in time under this paragraph (h)(2)(vi) if they are made within 90 calendar days of each other.

* * * * *

(viii) *Identification*—(A) *In general.* The actual issuer must identify the contract on its books and records maintained for the hedged bonds not later than 15 calendar days after the date on which there is a binding agreement to enter into a hedge contract (for example, the date of a hedge pricing confirmation, as distinguished from the closing date for the hedge or start date for payments on the hedge, if different). The identification must specify the name of the hedge provider, the terms of the contract, the hedged bonds, and include a hedge provider's certification as described in paragraph (h)(2)(viii)(B) of this section. The identification must contain sufficient detail to establish that the requirements of this paragraph (h)(2) and, if applicable, paragraph (h)(4) of this section are satisfied. In addition, the existence of the hedge must be noted on the first form relating to the issue of which the hedged bonds are a part that is filed with the Internal Revenue Service on or after the date on which the contract is identified pursuant to this paragraph (h)(2)(viii).

(B) *Hedge provider's certification.* The hedge provider's certification must—

(*1*) Provide that the terms of the hedge were agreed to between a willing buyer and willing seller in a bona fide, arm's-length transaction;

(*2*) Provide that the hedge provider has not made, and does not expect to make, any payment to any third party for the benefit of the issuer in connection with the hedge, except for any such third-party payment that the hedge provider expressly identifies in the documents for the hedge;

(*3*) Provide that the amounts payable to the hedge provider pursuant to the hedge do not include any payments for underwriting or other services unrelated to the hedge provider's obligations under the hedge, except for any such payment that the hedge provider expressly identifies in the documents for the hedge; and

(*4*) Contain any other statements that the Commissioner may provide in guidance published in the Internal Revenue Bulletin. See § 601.601(d)(2)(ii) of this chapter.

(3) * * *

(iv) *Accounting for modifications and terminations*—(A) *Modification defined.* A modification of a qualified hedge includes, without limitation, a change in the terms of the hedge or an issuer's acquisition of another hedge with terms that have the effect of modifying an issuer's risk of interest rate changes or other terms of an existing qualified hedge. For example, if the issuer enters into a qualified hedge that is an interest rate swap under which it receives payments based on the Securities Industry and Financial Market Association (SIFMA) Municipal Swap

Index and subsequently enters a second hedge (with the same or different provider) that limits the issuer's exposure under the existing qualified hedge to variations in the SIFMA Municipal Swap Index, the new hedge modifies the qualified hedge.

(B) *Termination defined.* A termination means either an actual termination or a deemed termination of a qualified hedge. Except as otherwise provided, an actual termination of a qualified hedge occurs to the extent that the issuer sells, disposes of, or otherwise actually terminates all or a portion of the hedge. A deemed termination of a qualified hedge occurs if the hedge ceases to meet the requirements for a qualified hedge; the issuer makes a modification (as defined in paragraph (h)(3)(iv)(A) of this section) that is material either in kind or in extent and, therefore, results in a deemed exchange of the hedge and a realization event to the issuer under section 1001; or the issuer redeems all or a portion of the hedged bonds.

(C) *Special rules for certain modifications when the hedge remains qualified.* A modification of a qualified hedge that otherwise would result in a deemed termination under paragraph (h)(3)(iv)(B) of this section does not result in such a termination if the modified hedge is re-tested for qualification as a qualified hedge as of the date of the modification, the modified hedge meets the requirements for a qualified hedge as of such date, and the modified hedge is treated as a qualified hedge prospectively in determining the yield on the hedged bonds. For purposes of this paragraph (h)(3)(iv)(C), when determining whether the modified hedge is qualified, the fact that the existing qualified hedge is off-market as of the date of the modification is disregarded and the identification requirement in paragraph (h)(2)(viii) of this section applies by measuring the time period for identification from the date of the modification and without regard to the requirement for a hedge provider's certification.

(D) *Continuations of certain qualified hedges in refundings.* If hedged bonds are redeemed using proceeds of a refunding issue, the qualified hedge for the refunded bonds is not actually terminated, and the hedge meets the requirements for a qualified hedge for the refunding bonds as of the issue date of the refunding bonds, then no termination of the hedge occurs and the hedge instead is treated as a qualified hedge for the refunding bonds. For purposes of this paragraph (h)(3)(iv)(D), when determining whether the hedge is a qualified hedge for the refunding bonds, the fact that the hedge is off-market with respect to the refunding bonds as of the issue date of the refunding bonds is disregarded and the identification requirement in paragraph (h)(2)(viii) of this section applies by measuring the time period for identification from the issue date of the refunding bonds and without regard to the requirement for a hedge provider's certification.

(E) *General allocation rules for hedge termination payments.* Except as otherwise provided in paragraphs (h)(3)(iv)(F), (G), and (H) of this section, a payment made or received by an issuer to terminate a qualified hedge, or a payment deemed made or received for a deemed termination, is treated as a payment made or received, as appropriate, on the hedged bonds. Upon an actual termination or a deemed termination of a qualified hedge, the amount that an issuer may treat as a termination payment made or received on the hedged bonds is the fair market value of the qualified hedge on its termination date, based on all of the facts and circumstances. Except as otherwise provided, a termination payment is reasonably allocated to the remaining periods originally covered by the terminated hedge in a manner that reflects the economic substance of the hedge.

(F) *Special rule for terminations when bonds are redeemed.* Except as otherwise provided in this paragraph (h)(3)(iv)(F) and in paragraph (h)(3)(iv)(G) of this section, when a qualified hedge is deemed terminated because the hedged bonds are redeemed, the termination payment as determined under paragraph (h)(3)(iv)(E) of this section is treated as made or received on that date. * * *

(G) *Special rules for refundings.* When there is a termination of a qualified hedge because there is a refunding of the hedged bonds, to the extent that the hedged bonds are redeemed using the proceeds of a refunding issue, the termination payment is accounted for under paragraph (h)(3)(iv)(E) of this section by treating it as a payment on the refunding issue, rather than the hedged bonds. In addition, to the extent that the refunding issue is redeemed during the period to which the termination payment has been allocated to that issue, paragraph (h)(3)(iv)(F) of this section applies to the termination payment by treating it as a payment on the redeemed refunding issue.

(H) *Safe harbor for allocation of certain termination payments.* A payment to terminate a qualified hedge does not result in that hedge failing to satisfy the applicable provisions of paragraph (h)(3)(iv)(E) of this section if that payment is allocated in accordance with this paragraph (h)(3)(iv)(H). * * *

(4) * * *

(i) * * *

(C) * * * A hedge based on a taxable interest rate or taxable interest index cannot meet the requirements of this paragraph (h)(4)(i)(C) unless either—

(*1*) The hedge is an anticipatory hedge that is terminated or otherwise closed substantially contemporaneously with the issuance of the hedged bond in accordance with paragraph (h)(5)(ii) or (iii) of this section; or

(*2*) The issuer's payments on the hedged bonds and the hedge provider's payments on the hedge are based on identical interest rates.

* * * * *

(iv) *Consequences of certain modifications.* The special rules under paragraph (h)(4)(iii) of this section regarding the effects of termination of a qualified hedge of fixed yield hedged bonds apply to a modification described in paragraph (h)(3)(iv)(C) of this section. Thus, such a modification is treated as a termination for purposes of paragraph (h)(4)(iii) of this section unless the rule in paragraph (h)(4)(iii)(C) applies.

* * * * *

Par. 10. Section 1.148–5 is amended by:

■ 1. Revising paragraph (c)(3).

■ 2. Revising paragraphs (d)(2) and (3).

■ 3. Revising the last sentence in paragraph (d)(6)(i) and adding a sentence at the end of the paragraph.

■ 4. Revising paragraphs (d)(6)(iii)(A)(*1*) and (*6*).

■ 5. Revising the second sentence of paragraph (e)(2)(ii)(B).

The revisions and additions read as follows:

§ 1.148–5 Yield and valuation of investments.

* * * * *

(c) * * *

(3) *Applicability of special yield reduction rule.* Paragraph (c) applies only to investments that are described in at least one of paragraphs (c)(3)(i) through (ix) of this section and, except as otherwise expressly provided in paragraphs (c)(3)(i) through (ix) of this section, that are allocated to proceeds of an issue other than gross proceeds of an advance refunding issue.

(i) *Nonpurpose investments allocated to proceeds of an issue that qualified for certain temporary periods.* Nonpurpose investments allocable to proceeds of an issue that qualified for one of the temporary periods available for capital projects, working capital expenditures, pooled financings, or investment proceeds under § 1.148–2(e)(2), (3), (4), or (6), respectively.

(ii) *Investments allocable to certain variable yield issues.* Investments allocable to a variable yield issue during any computation period in which at least 5 percent of the value of the issue is represented by variable yield bonds, unless the issue is an issue of hedge bonds (as defined in section 149(g)(3)(A)).

(iii) *Nonpurpose investments allocable to certain transferred proceeds.* Nonpurpose investments allocable to transferred proceeds of—

(A) A current refunding issue to the extent necessary to reduce the yield on those investments to satisfy yield restrictions under section 148(a); or

(B) An advance refunding issue to the extent that investment of the refunding escrows allocable to the proceeds, other than transferred proceeds, of the refunding issue in zero-yielding nonpurpose investments is insufficient to satisfy yield restrictions under section 148(a).

(iv) *Purpose investments allocable to qualified student loans and qualified mortgage loans.* Purpose investments allocable to qualified student loans and qualified mortgage loans.

(v) *Nonpurpose investments allocable to gross proceeds in certain reserve funds.* Nonpurpose investments allocable to gross proceeds of an issue in a reasonably required reserve or replacement fund or a fund that, except for its failure to satisfy the size limitation in § 1.148–2(f)(2)(ii), would qualify as a reasonably required reserve or replacement fund, but only to the extent the requirements in paragraphs (c)(3)(v)(A) or (B) of this section are met. This paragraph (c)(3)(v) includes nonpurpose investments described in this paragraph that are allocable to transferred proceeds of an advance refunding issue, but only to the extent necessary to satisfy yield restriction under section 148(a) on those proceeds treating all investments allocable to those proceeds as a separate class.

(A) The value of the nonpurpose investments in the fund is not greater than 15 percent of the stated principal amount of the issue, as computed under § 1.148–2(f)(2)(ii).

(B) The amounts in the fund (other than investment earnings) are not reasonably expected to be used to pay debt service on the issue other than in connection with reductions in the amount required to be in that fund (for example, a reserve fund for a revolving fund loan program).

(vi) *Nonpurpose investments allocable to certain replacement proceeds of refunded issues.* Nonpurpose investments allocated to replacement proceeds of a refunded issue, including a refunded issue that is an advance refunding issue, as a result of the application of the universal cap to amounts in a refunding escrow.

(vii) *Investments allocable to replacement proceeds under a certain transition rule.* Investments described in § 1.148–11(f).

(viii) *Nonpurpose investments allocable to proceeds when State and Local Government Series Securities are unavailable.* Nonpurpose investments allocable to proceeds of an issue, including an advance refunding issue, that an issuer purchases if, on the date the issuer enters into the agreement to purchase such investments, the issuer is unable to subscribe for State and Local Government Series Securities because the U.S. Department of the Treasury, Bureau of the Fiscal Service, has suspended sales of those securities.

(ix) *Nonpurpose investments allocable to proceeds of certain variable yield advance refunding issues.* Nonpurpose investments allocable to proceeds of the portion of a variable yield issue used for advance refunding purposes that are deposited in a yield restricted defeasance escrow if—

(A) The issuer has entered into a qualified hedge under § 1.148–4(h)(2) with respect to all of the variable yield bonds of the issue allocable to the yield restricted defeasance escrow and that hedge is in the form of a variable-to-fixed interest rate swap under which the issuer pays the hedge provider a fixed interest rate and receives from the hedge provider a floating interest rate;

(B) Such qualified hedge covers a period beginning on the issue date of the hedged bonds and ending on or after the date on which the final payment is to be made from the yield restricted defeasance escrow; and

(C) The issuer restricts the yield on the yield restricted defeasance escrow to a yield that is not greater than the yield on the issue, determined by taking into account the issuer's fixed payments to be made under the hedge and by assuming that the issuer's variable yield payments to be paid on the hedged bonds are equal to the floating payments to be received by the issuer under the qualified hedge and are paid on the same dates (that is, such yield reduction payments can only be made to address basis risk differences between the variable yield payments on the hedged bonds and the floating payments received on the hedge).

* * * * *

(d) * * *

(2) *Mandatory valuation of certain yield restricted investments at present value.* A purpose investment must be valued at present value, and except as otherwise provided in paragraphs (b)(3) and (d)(3) of this section, a yield restricted nonpurpose investment must be valued at present value.

(3) *Mandatory valuation of certain investments at fair market value*—(i) *In general.* Except as otherwise provided in paragraphs (d)(3)(ii) and (d)(4) of this section, a nonpurpose investment must be valued at fair market value on the date that it is first allocated to an issue or first ceases to be allocated to an issue as a consequence of a deemed acquisition or deemed disposition. For example, if an issuer deposits existing nonpurpose investments into a sinking fund for an issue, those investments must be valued at fair market value as of the date first deposited into the fund.

(ii) *Exception to fair market value requirement for transferred proceeds allocations, certain universal cap allocations, and commingled funds.* Paragraph (d)(3)(i) of this section does not apply if the investment is allocated from one issue to another as a result of the transferred proceeds allocation rule under § 1.148–9(b) or is deallocated from one issue as a result of the universal cap rule under § 1.148–6(b)(2) and reallocated to another issue as a result of a preexisting pledge of the investment to secure that other issue, provided that, in either circumstance (that is, transferred proceeds allocations or universal cap deallocations), the issue from which the investment is allocated (that is, the first issue in an allocation from one issue to another issue) consists of tax-exempt bonds. In addition, paragraph (d)(3)(i) of this section does not apply to investments in a commingled fund (other than a bona fide debt service fund) unless it is an investment being initially deposited in or withdrawn from a commingled fund described in § 1.148–6(e)(5)(iii).

* * * * *

(6) * * *

(i) * * * On the purchase date, the fair market value of a United States Treasury obligation that is purchased directly from the United States Treasury, including a State and Local Government Series Security, is its purchase price. The fair market value of a State and Local Government Series Security on any date other than the purchase date is the redemption price for redemption on that date.

* * * * *

(iii) * * *

(A) * * *

(*1*) The bid specifications are in writing and are timely disseminated to potential providers. For purposes of this paragraph (d)(6)(iii)(A)(*1*), a writing may be in electronic form and may be disseminated by fax, email, an internet-based Web site, or other electronic medium that is similar to an internet-based Web site and regularly used to post bid specifications.

* * * * *

(*6*) All potential providers have an equal opportunity to bid. If the bidding process affords any opportunity for a potential provider to review other bids before providing a bid, then providers have an equal opportunity to bid only if all potential providers have an equal opportunity to review other bids. Thus, no potential provider may be given an opportunity to review other bids that is not equally given to all potential providers (that is, no exclusive "last look").

* * * * *

(e) * * *

(2) * * *

(ii) * * *

(B) * * * For purposes of this paragraph (e)(2)(ii)(B), a fund is treated as widely held only if, during the immediately preceding fixed, semiannual period chosen by the fund (for example, semiannual periods ending June 30 and December 31), the fund had a daily average of more than 15 investors that were not related parties, and at least 16 of the unrelated investors each maintained a daily average amount invested in the fund that was not less than the lesser of $500,000 and one percent (1%) of the daily average of the total amount invested in the fund (with it being understood that additional smaller investors will not disqualify the fund).

* * *

* * * * *

■ **Par. 11.** Section 1.148–6 is amended by:

■ 1. Revising the second sentence of paragraph (d)(3)(iii)(A).

■ 2. Removing paragraph (d)(4)(iii).

The revision reads as follows:

§ 1.148–6 General allocation and accounting rules.

* * * * *

(d) * * *

(3) * * *

(iii) * * *

(A) * * * Except as otherwise provided, available amount excludes proceeds of any issue but includes cash, investments, and other amounts held in accounts or otherwise by the issuer or a related party if those amounts may be used by the issuer for working capital expenditures of the type being financed by an issue without legislative or judicial action and without a legislative, judicial, or contractual requirement that those amounts be reimbursed.

* * * * *

■ **Par. 12.** Section 1.148–7 is revised by:

■ 1. Revising paragraph (c)(3)(v).

■ 2. Revising paragraph (i)(6)(ii).

The revisions read as follows:

§ 1.148–7 Spending exceptions to the rebate requirement.

* * * * *

(c) * * *

(3) * * *

(v) Representing repayments of grants (as defined in § 1.150–1(f)) financed by the issue.

* * * * *

(i) * * *

(6) * * *

(ii) Repayments of grants (as defined in § 1.150–1(f)) financed by the issue.

* * * * *

■ **Par. 13.** Section 1.148–8(d) is revised to read as follows:

§ 1.148–8 Small issuer exception to rebate requirement.

* * * * *

(d) *Pooled financings—treatment of conduit borrowers.* A loan to a conduit borrower in a pooled financing qualifies for the small issuer exception, regardless of the size of either the pooled financing or of any loan to other conduit borrowers, only if—

(1) The bonds of the pooled financing are not private activity bonds;

(2) None of the loans to conduit borrowers are private activity bonds; and

(3) The loan to the conduit borrower meets all the requirements of the small issuer exception.

* * * * *

■ **Par. 14.** Section 1.148–10 is amended by:

■ 1. Revising the last sentence of paragraph (a)(4).

■ 2. Revising the heading and first sentence of paragraph (e).

The revisions read as follows:

§ 1.148–10 Anti-abuse rules and authority of Commissioner.

(a) * * *

(4) * * * These factors may be outweighed by other factors, such as bona fide cost underruns, an issuer's bona fide need to finance extraordinary working capital items, or an issuer's long-term financial distress.

* * * * *

(e) *Authority of the Commissioner to prevent transactions that are inconsistent with the purpose of the arbitrage investment restrictions.* If an issuer enters into a transaction for a principal purpose of obtaining a material financial advantage based on the difference between tax-exempt and taxable interest rates in a manner that is inconsistent with the purposes of section 148, the Commissioner may exercise the Commissioner's discretion to depart from the rules of § 1.148–1 through § 1.148–11 as necessary to reflect the economics of the transaction to prevent such financial advantage.

* * *

* * * * *

■ **Par. 15.** Section 1.148–11 is amended by:

■ 1. Redesignating paragraphs (d)(1)(i), (ii), (iii), (iv), (v), and (vi) as paragraphs (d)(1)(i)(A), (B), (C), (D), (E), and (F), respectively.

■ 2. Revising the heading of paragraph (d)(1) and adding introductory text to paragraph (d)(1)(i).

■ 3. Revising newly redesignated paragraphs (d)(1)(i)(B), (D), and (F).

■ 4. Adding new paragraph (d)(1)(ii).

■ 5. Adding paragraph (k).

■ 6. Revising paragraph (l).

The revisions and additions read as follows:

§ 1.148–11 Effective/applicability dates.

* * * * *

(d) * * *

(1) *Certain perpetual trust funds*—(i) A guarantee by a fund created and controlled by a State and established pursuant to its constitution does not cause the amounts in the fund to be pledged funds treated as replacement proceeds if—

* * * * *

(B) The corpus of the guarantee fund may be invaded only to support specifically designated essential governmental functions (designated functions) carried on by political subdivisions with general taxing powers or public elementary and public secondary schools;

* * * * *

(D) The issue guaranteed consists of obligations that are not private activity bonds (other than qualified 501(c)(3) bonds) substantially all of the proceeds of which are to be used for designated functions;

* * * * *

(F) As of the sale date of the bonds to be guaranteed, the amount of the bonds to be guaranteed by the fund plus the then-outstanding amount of bonds previously guaranteed by the fund does not exceed a total amount equal to 500 percent of the total costs of the assets held by the fund as of December 16, 2009.

(ii) The Commissioner may, by published guidance, set forth additional circumstances under which guarantees by certain perpetual trust funds will not cause amounts in the fund to be treated as replacement proceeds.

* * * * *

(k) *Certain arbitrage guidance updates*—(1) *In general.* Sections 1.148–1(c)(4)(i)(B)(1); 1.148–1(c)(4)(i)(B)(4); 1.148–1(c)(4)(ii); 1.148–2(e)(3)(i); 1.148–3(d)(1)(iv); 1.148–3(d)(4); 1.148–4(a); 1.148–4(b)(3)(i); 1.148–4(h)(2)(ii)(A); 1.148–4(h)(2)(v); 1.148–4(h)(2)(vi); 1.148(h)(4)(i)(C); 1.148–5(c)(3); 1.148–5(d)(2); 1.148–5(d)(3); 1.148–5(d)(6)(i); 1.148–5(d)(6)(iii)(A); 1.148–5(e)(2)(ii)(B); 1.148–6(d)(4); 1.148–7(c)(3)(v); 1.148–7(i)(6)(ii); 1.148–10(a)(4); 1.148–10(e); 1.148–11(d)(1)(i)(B); 1.148–11(d)(1)(i)(D); 1.148–11(d)(1)(i)(F); and 1.148–11(d)(1)(ii) apply to bonds sold on or after October 17, 2016.

(2) *Valuation of investments in refunding transactions.* Section 1.148–5(d)(3) also applies to bonds refunded by bonds sold on or after October 17, 2016.

(3) *Rebate overpayment recovery.* (i) Section 1.148–3(i)(3)(i) applies to claims arising from an issue of bonds to which § 1.148–3(i) applies and for which the final computation date is after June 24, 2008. For purposes of this paragraph (k)(3)(i), issues for which the actual final computation date is on or before June 24, 2008, are deemed to have a final computation date of July 1, 2008, for purposes of applying § 1.148–3(i)(3)(i).

(ii) Section 1.148–3(i)(3)(ii) and (iii) apply to claims arising from an issue of bonds to which § 1.148–3(i) applies and for which the final computation date is after September 16, 2013.

(iii) Section 1.148–3(j) applies to bonds subject to § 1.148–3(i).

(4) *Hedge identification.* Section 1.148–4(h)(2)(viii) applies to hedges that are entered into on or after October 17, 2016.

(5) *Hedge modifications and termination.* Section 1.148–4(h)(3)(iv)(A) through (H) and (h)(4)(iv) apply to—

(i) Hedges that are entered into on or after *October 17, 2016;*

(ii) Qualified hedges that are modified on or after October 17, 2016 with respect to modifications on or after such date; and

(iii) Qualified hedges on bonds that are refunded on or after October 17, 2016 with respect to the refunding on or after such date.

(6) *Small issuer exception to rebate requirement for conduit borrowers of pooled financings.* Section 1.148–8(d) applies to bonds issued after May 17, 2006.

(l) *Permissive application of certain arbitrage updates*—(1) *In general.* Except as otherwise provided in this paragraph (l), issuers may apply the provisions described in paragraph (k)(1), (2), and (5) in whole, but not in part, to bonds sold before October 17, 2016.

(2) *Computation credit.* Issuers may apply § 1.148–3(d)(1)(iv) and (d)(4) for bond years ending on or after October 17, 2016.

(3) *Yield reduction payments.* Issuers may apply § 1.148–5(c)(3) for investments purchased on or after October 17, 2016.

(4) *External commingled funds.* Issuers may apply § 1.148–5(e)(2)(ii)(B) with respect to costs incurred on or after July 18, 2016.

■ **Par. 16.** Section 1.150–1 is amended by:

■ 1. Adding paragraph (a)(2)(iii).

■ 2. Adding a definition for "tax-advantaged bond" in alphabetical order to paragraph (b).

■ 3. Revising paragraph (c)(2).

■ 4. Adding paragraph (f).

The revisions and additions read as follows:

§ 1.150–1 Definitions.

(a) * * *

(2) * * *

(iii) *Special effective date for definitions of tax-advantaged bond, issue, and grant.* The definition of tax-advantaged bond in paragraph (b) of this section, the revisions to the definition of issue in paragraph (c)(2) of this section, and the definition and rules regarding the treatment of grants in paragraph (f) of this section apply to bonds that are sold on or after October 17, 2016.

* * * * *

(b) * * *

Tax-advantaged bond means a tax-exempt bond, a taxable bond that provides a federal tax credit to the investor with respect to the issuer's borrowing costs, a taxable bond that provides a refundable federal tax credit payable directly to the issuer of the bond for its borrowing costs under section 6431, or any future similar bond that provides a federal tax benefit that reduces an issuer's borrowing costs. Examples of tax-advantaged bonds include qualified tax credit bonds under section 54A(d)(1) and build America bonds under section 54AA.

* * * * *

(c) * * *

(2) *Exceptions for different types of tax-advantaged bonds and taxable bonds.* Each type of tax-advantaged bond that has a different structure for delivery of the tax benefit that reduces the issuer's borrowing costs or different program eligibility requirements is treated as part of a different issue under this paragraph (c). Further, tax-advantaged bonds and bonds that are not tax-advantaged bonds are treated as part of different issues under this paragraph (c). The issuance of tax-advantaged bonds in a transaction with other bonds that are not tax-advantaged bonds must be tested under the arbitrage anti-abuse rules under § 1.148–10(a) and other applicable anti-abuse rules (for example, limitations against window maturity structures or unreasonable allocations of bonds).

* * * * *

(f) *Definition and treatment of grants*—(1) *Definition.* Grant means a transfer for a governmental purpose of money or property to a transferee that is not a related party to or an agent of the transferor. The transfer must not impose any obligation or condition to directly or indirectly repay any amount to the transferor or a related party. Obligations or conditions intended solely to assure expenditure of the transferred moneys in accordance with the governmental purpose of the transfer do not prevent a transfer from being a grant.

(2) *Treatment.* Except as otherwise provided (for example, § 1.148–6(d)(4), which treats proceeds used for grants as spent for arbitrage purposes when the grant is made), the character and nature of a grantee's use of proceeds are taken into account in determining which rules are applicable to the bond issue and whether the applicable requirements for the bond issue are met. For example, a grantee's use of proceeds generally determines whether the proceeds are used for capital projects or working capital expenditures under section 148 and whether the qualified purposes for the specific type of bond issue are met.

■ **Par. 17.** Section 1.150–2(d)(3) is amended by:

■ 1. Amending paragraph (a) by adding an entry for § 1.150–2(j)(3).

■ 2. Revising paragraphs (d)(3) and (j)(1).

■ 3. Adding paragraph (j)(3).

The revisions and additions read as follows:

§ 1.150–2 Proceeds of bonds used for reimbursement.

(a) * * *

(j) * * *

(3) Nature of expenditure.

* * * * *

(d) * * *

(3) *Nature of expenditure.* The original expenditure is a capital expenditure, a cost of issuance for a bond, an expenditure described in § 1.148–6(d)(3)(ii)(B) (relating to certain extraordinary working capital items), a grant (as defined in § 1.150–1(f)), a

qualified student loan, a qualified mortgage loan, or a qualified veterans' mortgage loan.

* * * * *

(j) * * *

(1) *In general.* Except as otherwise provided, the provisions of this section apply to all allocations of proceeds of reimbursement bonds issued after June 30, 1993.

* * * * *

(3) *Nature of expenditure.* Paragraph (d)(3) of this section applies to bonds that are sold on or after October 17, 2016.

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

Approved: June 28, 2016.

Mark J. Mazur,

Assistant Secretary of the Treasury.

[FR Doc. 2016–16558 Filed 7–15–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

30 CFR Parts 550 and 556

[MMAA104000]

Notice of Availability of Notice to Lessees and Operators of Federal Oil and Gas, and Sulfur Leases, and Holders of Pipeline Right-of-Way and Right-of-Use and Easement Grants in the Outer Continental Shelf—Requiring Additional Security

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Notice of availability.

SUMMARY: The Bureau of Ocean Energy Management (BOEM) is announcing the availability of a guidance document entitled, "Notice to Lessees and Operators of Federal Oil and Gas, and Sulfur Leases, and Holders of Pipeline Right-of-Way and Right-of-Use and Easement Grants in the Outer Continental Shelf—Requiring Additional Security" (NTL No. 2016–N01).

DATES: This guidance document will become effective on September 12, 2016.

FOR FURTHER INFORMATION CONTACT: Robert Sebastian, Office of Policy, Regulation and Analysis at (504) 736–2761 or email at *robert.sebastian@boem.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Bureau of Ocean Energy Management (BOEM) issues Notices to Lessees (NTL) as guidance documents in accordance with 30 CFR 550.103 to clarify and provide more detail about certain BOEM regulatory requirements, and to outline the information to be provided in various submittals. Under that authority, NTL No. 2016–N01, *Requiring Additional Security,* sets forth a policy on, and an interpretation of, regulatory requirements to provide a clear and consistent approach for complying with those requirements.

BOEM is issuing this NTL to clarify the procedures and criteria that BOEM Regional Directors use to determine if and when additional security, pursuant to 30 CFR 556.901(d)–(f), may be required for Outer Continental Shelf (OCS) leases, pipeline rights-of-way (ROW), and rights-of-use and easement (RUE). The guidance and clarification of requirements described in this NTL apply to all BOEM regions. This NTL has also been reformatted, revised, and updated to include correct Bureau names, citations, and web addresses. This NTL supersedes and replaces NTL No. 2008–N07, *Supplemental Bond Procedures.*

This NTL details several changes in policy that are within the scope of the existing regulations and the discretion vested in the BOEM Regional Directors. First, BOEM has determined that its previously utilized formulas for determining financial strength and reliability are outdated and no longer provide sufficient protection for liabilities incurred during OCS operations. Therefore, this NTL describes new criteria that will be used to determine the financial ability of a lessee, ROW holder, or RUE holder to carry out its obligations, and addresses the possibility of individually tailoring a plan to enable the lessee, ROW holder, or RUE holder to use one or more forms of security other than surety bonds and pledges of Treasury securities and/or to phase-in compliance with the additional security requirement pursuant to such a plan. In addition, the current self-insurance upper limit of 50% of a lessee's net worth is being reduced and will range from 0% to no more than 10% of a lessee's "tangible net worth" as defined in the NTL.

Second, this NTL discontinues two policies under NTL No. 2008–N07: (1) If BOEM determined that one or more co-lessees or co-owners had sufficient financial strength and reliability, it was not necessary to provide additional security; and (2) for the purpose of determining the requirement for additional security, BOEM excluded from its decommissioning liability calculation the full amount of the decommissioning liability on leases, ROWs, and RUEs for which there was at least one financially strong co-lessee or co-owner. Thus lessees will no longer be granted waivers from the additional security obligations, and BOEM is discontinuing the policy of considering the combined strength and reliability of co-lessees when determining a lessee's additional security requirements. Now, when determining the amount of additional security that may be required, the Regional Director will consider whether each lessee, ROW holder, or RUE holder is capable of addressing the responsibility for 100 percent of the cost of decommissioning and other liability for every lease, ROW, and RUE in which the lessee, ROW holder, or RUE holder holds an ownership interest or for which they provide a guarantee. In order to meet all or a portion of the additional security required for any one lease, ROW, or RUE, BOEM will take into account enforceable agreements that lessees, ROW holders or RUE holders have made with their co-lessees or co-owners regarding the allocation of security obligations to such lease, ROW, or RUE.

II. Electronic Access

NTL No. 2016–N01 is available on BOEM's Web site at: *http://www.boem.gov/Notices-to-Lessees-and-Operators/.*

Authority: This document is published pursuant to the Outer Continental Shelf Lands Act of August 7, 1953; 43 U.S.C. 1331 *et seq.,* as amended, and the implementing regulations at 30 CFR 550.103.

Date: July 12, 2016.

Abigail Ross Hopper,

Director, Bureau of Ocean Energy Management.

[FR Doc. 2016–16846 Filed 7–15–16; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2016–0682]

Drawbridge Operation Regulation; Black Warrior River, Eutaw, Alabama

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulations.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating

schedule that governs the Norfolk Southern Railroad vertical lift span bridge across the Black Warrior River, mile 267.8, at Eutaw, Greene County, Alabama. This deviation is necessary to install drive motors necessary for the continued safe operation of the bridge. This deviation allows the bridge to remain closed for two (2) three-hour periods daily, Monday through Thursday for three consecutive weeks.

DATES: This deviation is effective from August 1, 2016 through August 18, 2016.

ADDRESSES: The docket for this deviation, [USCG–2016–0682] is available at *http://www.regulations.gov.* Type the docket number in the "SEARCH" box and click "SEARCH". Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email David Frank, Bridge Administration Branch, Coast Guard; telephone 504–671–2128, email *david.m.frank@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Norfolk Southern Corporation requested a temporary deviation in order to perform maintenance on the Norfolk Southern Railroad vertical lift span bridge across the Black Warrior River, mile 267.8, at Eutaw, Greene County, Alabama. This deviation allows the bridge owner to install drive motors necessary to improve reliability and safe operation of the movable bridge. This temporary deviation allows the bridge to remain closed to navigation from 8 a.m. until 11 a.m. and from 1 p.m. until 4 p.m. daily, Monday through Thursday, August 1, 2016 through August 18, 2016.

The Norfolk Southern Railroad vertical lift span drawbridge currently operates in accordance with 33 CFR 117.5, which states the general requirement that the drawbridge shall open on signal. The bridge has a vertical clearance of 18.3 feet above Bridge Reference Elevation for Navigation Clearance (BRENC), elevation 99.2 feet, in the closed-to-navigation position and 72 feet above BRENC in the open-to-navigation position. Navigation on the waterway consists primarily of tugs with tows and occasional recreational craft. The Coast Guard has coordinated this temporary deviation with the Warrior-Tombigbee Waterway Association (WTWA). The WTWA representative indicated that the vessel operators will be able to schedule transits through the bridge such that operations will not significantly be hindered. Thus, it has been determined that this temporary deviation will not have a significant effect on these vessels.

Vessels able to pass through the bridge in the closed position may do so at any time and should pass at the slowest safe speed. The bridge will be able to open for emergencies and there are no immediate alternate routes for vessels to pass.

The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: July 12, 2016.

David M. Frank,

Bridge Administrator, Eighth Coast Guard District.

[FR Doc. 2016–16864 Filed 7–15–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2011–1126]

Security Zones; Seattle's Seafair Fleet Week Moving Vessels, 2016, Puget Sound, WA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce Seattle's Seafair Fleet Week Moving Vessels security zones from 10 a.m. on August 2, 2016, through 6 p.m. on August 8, 2016. These security zones are necessary to help ensure the security of the vessels from sabotage or other subversive acts during Seafair Fleet Week Parade of Ships. The designated participating vessels are: HMCS SASKATOON (MM 709) and USCGC ACTIVE (WMEC 618). During the enforcement period, no person or vessel may enter or remain in the security zones without the permission of the Captain of the Port (COTP), Puget Sound or his designated representative. The COTP has granted general permission for vessels to enter the outer 400 yards of the security zones as long as those vessels within the outer 400 yards of the security zones operate at the minimum speed necessary to maintain course unless required to maintain speed by the navigation rules.

DATES: The regulations in 33 CFR 165.1333 will be enforced from 10 a.m. on August 2, 2016 through 6 p.m. on August 8, 2016, unless canceled sooner by the Captain of the Port, Puget Sound or his designated representative.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email LT Kate Haseley, Sector Puget Sound Waterways Management, Coast Guard; telephone (206) 217–6051, email *SectorPugetSoundWWM@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the security zones for Seattle's Seafair Fleet Week Moving Vessels in 33 CFR 165.1333 from 10 a.m. on August 2, 2016, through 6 p.m. on August 8, 2016.

In accordance with the general regulations in 33 CFR part 165, subpart D, no person or vessel may enter or remain in the security zones without the permission of the Captain of the Port, Puget Sound or his designated representative. For the purposes of this rule, the following areas are security zones: All navigable waters within 500 yards of HMCS SASKATOON (MM 709) and USCGC ACTIVE (WMEC 618) while each such vessel is in the Sector Puget Sound COTP Zone.

The COTP has granted general permission for vessels to enter the outer 400 yards of the security zones as long as those vessels within the outer 400 yards of the security zones operate at the minimum speed necessary to maintain course unless required to maintain speed by the navigation rules. The COTP may be assisted by other federal, state or local agencies with the enforcement of the security zones.

All vessel operators who desire to enter the inner 100 yards of the security zones or transit the outer 400 yards at greater than minimum speed necessary to maintain course must obtain permission from the COTP or his designated representative by contacting the on-scene patrol craft on VHF 13 or Ch 16. Requests must include the reason why movement within this area is necessary. Vessel operators granted permission to enter the security zones will be escorted by the on-scene patrol craft until they are outside of the security zones.

This notice is issued under authority of 33 CFR 165.1333 and 5 U.S.C. 552(a). In addition to this notice of enforcement, the Coast Guard will provide the maritime community with advanced notification of the security zones via the Local Notice to Mariners and marine information broadcasts on the day of the event.

Dated: July 11, 2016.

M.W. Raymond,

Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.

[FR Doc. 2016–16871 Filed 7–15–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2011–0451]

Safety Zone, Seafair Air Show Performance, 2016, Seattle, WA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the annual Seafair Air Show Performance safety zone on Lake Washington, Seattle, WA daily, from 8 a.m. until 4 p.m., from August 4, 2016, through August 7, 2016. This action is necessary to ensure the safety of the public from inherent dangers associated with these annual aerial displays. During the enforcement period, no person or vessel may enter or transit this safety zone unless authorized by the Captain of the Port or his designated representative.

DATES: The regulations in 33 CFR 165.1319 will be enforced daily, from 8 a.m. until 4 p.m., from August 4, 2016, through August 7, 2016.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice of enforcement, call or email LT Kate Haseley, Sector Puget Sound Waterways Management Division, Coast Guard; telephone (206) 217–6051, email *SectorPugetSoundWWM@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Seafair Air Show Performance safety zone in 33 CFR 165.1319 daily, from 8 a.m. until 4 p.m., from August 4, 2016, through August 7, 2016 unless canceled sooner by the Captain of the Port.

Under the provisions of 33 CFR 165.1319, the following area is designated as a safety zone: All waters of Lake Washington, Washington State, south of the Interstate 90 bridge, west of Mercer Island, and north of Seward Park. The specific boundaries of the safety zone are listed in 33 CFR 165.1319(b).

In accordance with the general regulations in 33 CFR part 165, subpart C, no person or vessel may enter or remain in the zone except for support vessels and support personnel, vessels registered with the event organizer, or other vessels authorized by the Captain of the Port or Designated Representatives. Vessels and persons granted authorization to enter the safety zone must obey all lawful orders or directions made by the Captain of the Port or his designated representative.

The Captain of the Port may be assisted by other federal, state and local law enforcement agencies in enforcing this regulation.

This document is issued under authority of 33 CFR 165.1319 and 5 U.S.C. 552(a). In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide the maritime community with advanced notification of the safety zone via the Local Notice to Mariners and marine information broadcasts on the day of the event. If the COTP determines that the safety zone need not be enforced for the full duration stated in this notice of enforcement, he may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: July 11, 2016.

M.W. Raymond,

Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.

[FR Doc. 2016–16870 Filed 7–15–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AP42

Prescriptions in Alaska and U.S. Territories and Possessions

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is removing its medical regulation that governs medications provided in Alaska and territories and possessions of the United States because this regulation is otherwise subsumed by another VA medical regulation related to provision of medications that are prescribed by non-VA providers.

DATES: This final rule is effective August 17, 2016.

FOR FURTHER INFORMATION CONTACT: Kristin J. Cunningham, Director, Business Policy, Chief Business Office (10D), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Ave. NW., Washington, DC 20420; (202) 382–2508. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** on February 8, 2016 (81 FR 6479), VA proposed to amend part 17 of 38 CFR by amending the regulations that govern medication provided in Alaska and territories and possessions of the United States. We provided a 60-day comment period, which ended on April 8, 2016. We received no comments on the proposed rule. Under section 1712(d) of title 38 United States Code (U.S.C.), VA must furnish medications to veterans who receive increased compensation or pension benefits by reason of being permanently housebound or in need of regular aid and attendance, if such medications are prescribed for the treatment of any injury or illness suffered by such veteran. VA originally promulgated two regulations on October 4, 1967, to implement section 1712(d), in title 38 Code of Federal Regulations (CFR) 17.60d and 17.60e. See 32 FR 13816. Section 1712(d) does not require these certain veterans to be receiving VA hospital care or medical services as a condition of receiving medications from VA and § 17.60d provided that VA pharmacies would fill prescriptions for these veterans when they were receiving care from a non-VA provider to treat any of the veteran's illnesses or injuries. See 32 FR 13816 (October 4, 1967). Section 17.60e, in turn, addressed geographic areas that, at the time, did not have VA pharmacies—§ 17.60e provided that in those areas without VA pharmacies, VA may reimburse the cost of prescriptions that otherwise would have been filled under § 17.60d. See 32 CFR 13816 (October 4, 1967).

Sections 17.60d and 17.60e were renumbered as §§ 17.96 and 17.97, respectively, and relate to the same cohort of veterans for whom VA is authorized to provide prescription medication under section 1712(d). Because the same cohort of veterans is at issue in §§ 17.96 and 17.97, and because § 17.96 already provides for the filling of prescriptions in non-VA pharmacies, a separate § 17.97 to address prescriptions in non-VA pharmacies (pharmacies in areas without VA pharmacies) is no longer necessary. We are, therefore, removing § 17.97 and marking it as reserved for future use, and are also revising § 17.96 to clarify that any non-VA pharmacy under contract with VA may be used, not just those non-VA pharmacies in a state home under contract with VA for filling prescriptions for patients in state homes.

We are making one edit to the proposed revision of the introductory paragraph in § 17.96 for grammatical accuracy. No change to the meaning of the proposed regulation text is intended by this edit.

Based on the rationale set forth in the Supplementary Information to the proposed rule and in this final rule, VA is adopting the proposed rule as a final rule with the edit discussed in this final rule.

Effect of Rulemaking

Title 38 of the Code of Federal Regulations, as revised by this final rulemaking, represents VA's implementation of its legal authority on this subject. Other than future amendments to this regulation or governing statutes, no contrary guidance or procedures are authorized. All existing or subsequent VA guidance must be read to conform with this rulemaking if possible or, if not possible, such guidance is superseded by this rulemaking.

Paperwork Reduction Act

This final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule directly affects only individuals and would not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604.

Executive Order 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a "significant regulatory action," requiring review by the Office of Management and Budget (OMB), unless OMB waives such review, as "any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order."

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at *http://www.va.gov/orpm/,* by following the link for "VA Regulations Published From FY 2004 Through Fiscal Year to Date."

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.007, Blind Rehabilitation Centers; 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.011, Veterans Dental Care; 64.012, Veterans Prescription Service; 64.014, Veterans State Domiciliary Care; 64.015, Veterans State Nursing Home Care; 64.018, Sharing Specialized Medical Resources; 64.019, Veterans Rehabilitation Alcohol and Drug Dependence; 64.022, Veterans Home Based Primary Care; and 64.024, VA Homeless Providers Grant and Per Diem Program.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Gina S. Farrisee, Deputy Chief of Staff, Department of Veterans Affairs, approved this document on June 30, 2016, for publication.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Health care, Health facilities, Health professions, Health records, Homeless, Mental health programs, Nursing homes, Veterans.

Dated: June 30, 2016.

Jeffrey Martin,

Office Program Manager, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

For the reasons set forth in the preamble, we amend 38 CFR part 17 as follows:

PART 17—MEDICAL

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, and as noted in specific sections.

■ 2. Amend § 17.96 by revising the introductory text to read as follows:

§ 17.96 Medication prescribed by non-VA physicians.

Any prescription, which is not part of authorized Department of Veterans Affairs hospital or outpatient care, for drugs and medicines ordered by a private or non-Department of Veterans Affairs doctor of medicine or doctor of osteopathy duly licensed to practice in the jurisdiction where the prescription is written, shall be filled by a Department of Veterans Affairs pharmacy or a non-VA pharmacy under contract with VA, including non-VA pharmacy in a state home under contract with VA for filling prescriptions for patients in state homes, provided:

* * * * *

§ 17.97 [Removed and reserved]

■ 3. Remove and reserve § 17.97.

[FR Doc. 2016–16908 Filed 7–15–16; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AP59

Hospital Care and Medical Services for Camp Lejeune Veterans

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends Department of Veterans Affairs (VA) regulations to reflect a statutory mandate that VA provide health care to certain veterans who served at Camp Lejeune, North Carolina, for at least 30 days during the period beginning on August 1, 1953, and ending on December 31, 1956. The law requires VA to furnish hospital care and medical services for these veterans for certain illnesses and conditions that may be attributed to exposure to toxins in the water system at Camp Lejeune. This rule does not address the statutory provision requiring VA to provide health care to these veterans' family members; regulations applicable to such family members will be promulgated through a separate final rule.

DATES: *Effective Date:* This rule is effective July 18, 2016.

FOR FURTHER INFORMATION CONTACT: Bridget Souza, Deputy Director, Business Policy, VHA Office of Community Care (10D), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Ave. NW., Washington, DC 20420, (202) 382–2537. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On August 6, 2012, the President signed into law the Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012, Public Law 112–154 ("the Act"). Among other things, section 102 of the Act amended section 1710 of title 38, United States Code (U.S.C.), to require VA to provide hospital care and medical services, for certain specified illnesses and conditions, to veterans who served at the Marine Corps base at Camp Lejeune, North Carolina (hereinafter referred to as Camp Lejeune), while on active duty in the Armed Forces for at least 30 days during the period beginning on January 1, 1957, and ending on December 31, 1987.

On September 11, 2013, VA published a notice of proposed rulemaking setting forth proposed regulations to provide hospital care and medical services to certain veterans who served at Camp Lejeune for at least 30 days from January 1, 1957, to December 31, 1987 ("the 1957 cohort"). 78 FR 55671–55675, Sept. 11, 2013. A final rule issuing those regulations was published on September 24, 2014, at 79 FR 57409–57415. In addition to various other provisions, the rule promulgated 38 CFR 17.400, Hospital care and medical services for Camp Lejeune veterans.

Subsequently, Congress passed the Consolidated and Further Continuing Appropriations Act, 2015, Public Law 113–235 ("the Consolidated Act"), which President Obama signed into law on December 16, 2014. Division I, Title II, § 243 of the law amended 38 U.S.C. 1710(e)(1)(F) by striking "January 1, 1957," and inserting "August 1, 1953." This added a new cohort of veterans to the group who are eligible for care pursuant to 38 U.S.C. 1710(e)(1)(F), namely, veterans who served on active duty in the Armed Forces at Camp Lejeune, North Carolina, for not fewer than 30 days during the period from August 1, 1953, to December 31, 1956 (the "1953 cohort"). Although this rulemaking revises regulations to reflect this statutory amendment, we note that VA is currently providing health care to veterans in the 1953 cohort under section 1710(e)(1)(F), as amended.

Pursuant to the Consolidated Act, VA amends § 17.400 to account for the change in the date that begins the period of eligibility for Camp Lejeune veterans to receive VA hospital care and medical services. Specifically, we amend the definition of "Camp Lejeune veteran" in § 17.400(b) by deleting "January 1, 1957" and adding in its place "August 1, 1953."

Currently, § 17.400(d)(2) establishes a right to retroactive reimbursement for the 1957 cohort for any copayments paid to VA for VA care provided to the veteran on and after August 6, 2012, so long as the veteran requests Camp Lejeune status no later than September 24, 2016. We previously noted in a Notice of Proposed Rulemaking that the basis for limiting beginning of this retroactivity period to August 6, 2012, was that the law authorizing Camp Lejeune benefits became effective on that date. We also explained in the proposed and final rules that the basis for the end date of September 24, 2016, was that it provided veterans with sufficient time (ultimately two years from the date that the regulation took effect) to file for retroactive benefits. 79 FR 57410. In this rulemaking, we are providing a similar retroactivity provision in § 17.400(d)(2) for the new 1953 cohort.

We further amend § 17.400(b) by adding a definition for "covered illness or condition." This definition is comprised of the 15 illnesses and conditions for which VA is required to provide hospital care and medical services to veterans under 38 U.S.C. 1710(e)(1)(F). These illnesses and conditions are currently listed in § 17.400(d)(1), which addresses exemptions from copayments. We remove the list of these illnesses and conditions from § 17.400(d)(1) and add it as part of the newly-added definition of "covered illness or condition" in § 17.400(b) for the purpose of improving the overall clarity of § 17.400. This is not a substantive change. We also amend § 17.400(b) to correct the spelling of the condition "Myelodysplastic syndromes," which is misspelled in current § 17.400. Similarly, we amend § 17.400(b) to make the word "lymphoma" lower case.

We make one technical change to § 17.400(c) to remove the reference to "illnesses or conditions listed in paragraph (d)(1)(i) through (xv) of this section," and add in its place a reference to "covered illness or condition," because this term is now defined in § 17.400(b), as explained above. We make one clarifying change to § 17.400(c). Current § 17.400(c) refers to "the veteran's active duty in the Armed Forces" and "the veteran's service," but does not specifically reference the veteran's active duty service at Camp Lejeune. We revise § 17.400(c) to state "VA will assume that a covered illness or condition is attributable to the veteran's active duty service at Camp Lejeune unless it is clinically determined, under VA clinical practice guidelines, that such an illness or condition resulted from a cause other than such service." This is not a substantive change. As we stated in the preamble to the proposed rule, "[i]n § 17.400(c), we would explain that VA would assume that a veteran who has been diagnosed with one of the 15 illnesses or conditions listed in § 17.400(d)(1)(A)–(O) has that specific condition or illness due to his or her exposure to contaminated water during service at Camp Lejeune." 78 FR 55671, 55673.

We make several amendments to § 17.400(d). First, we amend paragraph (d)(1) by removing the current list of covered illnesses and conditions and adding them to the definitions in § 17.400(b), as noted above.

We further amend § 17.400(d)(1) to specify the dates for each cohort for the exemption from copayments for hospital care and medical services provided for a covered illness or condition. Specifically, paragraph (d)(1)(i) provides that members of the 1957 cohort are not subject to such copayments for hospital care and medical services provided on or after August 6, 2012, the date that the

Act was signed by the President and became effective. This provision is unchanged from the exemption provision for these veterans in former § 17.400(d)(1). Paragraph (d)(1)(ii) provides that members of the 1953 cohort are not subject to such copayments for hospital care and medical services provided on or after December 16, 2014, the date that the Consolidated Act was signed by the President and became effective. This distinction is required because the Consolidated Act's amendment to 38 U.S.C. 1710(e)(1)(F) changed the date of active duty service at Camp Lejeune that would qualify a veteran for hospital care and medical services based on such service; but it did not make such eligibility retroactive to the date on which the Act became effective. Accordingly, VA must limit the 1953 cohort's eligibility for exemption from copayments to the effective date of the Consolidated Act.

We also revise § 17.400(d)(2) to provide the criteria for eligibility for the 1953 and 1957 cohorts' retroactive exemption from copayments, *i.e.*, reimbursement of copayments previously paid to VA for hospital care and medical services for a covered illness or condition. Under paragraph (d)(2)(i), a Camp Lejeune veteran in the 1957 cohort will be reimbursed for copayments if VA provided the hospital care or medical services to the veteran on or after August 6, 2012, the date the veteran became eligible for hospital care and medical services under the Act, and the veteran requested Camp Lejeune veteran status no later than September 24, 2016, two years after the date on which § 17.400 was initially promulgated. This is not a substantive change from the retroactive exemption for these veterans in former § 17.400(d)(2).

Under paragraph (d)(2)(ii), a Camp Lejeune veteran in the 1953 cohort will be reimbursed for copayments if VA provided the hospital care or medical services to the veteran on or after December 16, 2014, the date the veteran became eligible for hospital care and medical services by virtue of the Consolidated Act, and the veteran requested Camp Lejeune veteran status no later than July 18, 2018, two years after the effective date of this rule. We believe that two years will provide veterans sufficient time to learn about their new status and notify VA that they meet the requirements to be a Camp Lejeune veteran; this is the same look-back period provided to veterans in the 1957 cohort in paragraph (d)(2)(i). As in the case of exemptions from copayments, discussed above, we note that veterans in the 1953 cohort are not eligible for reimbursement for copayments made before December 16, 2014, because the Consolidated Act's amendment to 38 U.S.C. 1710(e)(1)(F) changed only the date of active duty service at Camp Lejeune that would qualify a veteran for Camp Lejeune status; it did not make such eligibility retroactive to the date of the Act. Accordingly, VA must limit the 1953 cohort's eligibility for reimbursement of copayments to the effective date of the Consolidated Act.

Effect of Rulemaking

Title 38 of the Code of Federal Regulations, as revised by this final rulemaking, represents VA's implementation of its legal authority on this subject. Other than future amendments to this regulation or governing statutes, no contrary guidance or procedures are authorized. All existing or subsequent VA guidance must be read to conform with this rulemaking if possible or, if not possible, such guidance is superseded by this rulemaking.

Administrative Procedure Act

The Secretary of Veterans Affairs finds under 5 U.S.C. 553(b)(B) that there is good cause to publish this rule without prior opportunity for public comment, and under 5 U.S.C. 553(d)(3) that there is good cause to publish this rule with an immediate effective date. This rulemaking makes clarifying, non-substantive changes to § 17.400 in addition to amending that regulation to incorporate a provision mandated by Congress. See Public Law 113–235. Notice and public comment is unnecessary because it could not result in any change to this provision. Further, since the public law became effective on its date of enactment, VA believes it is impracticable and contrary to law and the public interest to delay this rule for the purpose of soliciting advance public comment or to have a delayed effective date.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (at 44 U.S.C. 3501–3507) requires that VA consider the impact of paperwork and other information collection burdens imposed on the public. Under 44 U.S.C. 3507(a), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid Office of Management and Budget (OMB) control number. See also 5 CFR 1320.8(b)(3)(vi).

This final rule will impose the following amended information collection requirements. Veterans will apply for hospital care and medical services as a Camp Lejeune veteran under § 17.400 by completing VA Form 10–10EZ, "Application for Health Benefits," which is required under 38 CFR 17.36(d) for all hospital care and medical services. OMB previously approved the collection of information for VA Form 10–10EZ and an amendment to that information collection, inclusion of a specific checkbox for individuals to identify themselves as meeting the requirements of being a Camp Lejeune veteran based on the required service at Camp Lejeune between 1957 and 1987, and assigned OMB control number 2900–0091. An amendment to the checkbox is needed so that veterans can identify themselves as meeting the requirements for being a Camp Lejeune veteran based on the required service at Camp Lejeune between August 1, 1953, and December 31, 1987. As required by the Paperwork Reduction Act of 1995 (at 44 U.S.C. 3507(d)), VA submitted this information collection amendment to OMB for its review. OMB approved the amended information collection requirements under existing control number 2900–0091.

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601–12). This final rule will directly affect only individuals and will not affect any small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final flexibility analysis requirements of sections 603 and 604.

Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a "significant regulatory action," requiring review by the Office of Management and Budget (OMB), unless OMB waives such review, as "any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order."

The economic, interagency, budgetary, legal, and policy implications of this final rule have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at *http://www.va.gov/orpm/,* by following the link for "VA Regulations Published From FY 2004 Through Fiscal Year to Date."

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this rule are 64.007, Blind Rehabilitation Centers; 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.012, Veterans Prescription Service; 64.013, Veterans Prosthetic Appliances; 64.014, Veterans State Domiciliary Care; 64.015, Veterans State Nursing Home Care; and 64.022, Veterans Home Based Primary Care.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Gina S. Farrisee, Deputy Chief of Staff, Department of Veterans Affairs, approved this document on June 30, 2016, for publication.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Health care, Health facilities, Health professions, Health records, Homeless, Medical devices, Medical research, Mental health programs, Nursing homes, Veterans.

Dated: June 30, 2016.

Jeffrey Martin,

Office Program Manager, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

For the reasons set forth in the supplementary information of this rulemaking, the Department of Veterans Affairs amends 38 CFR part 17 as follows:

PART 17—MEDICAL

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, and as noted in specific sections.

■ 2. Revise § 17.400 to read as follows:

§ 17.400 Hospital care and medical services for Camp Lejeune veterans.

(a) *General.* In accordance with this section, VA will provide hospital care and medical services to Camp Lejeune veterans. Camp Lejeune veterans will be enrolled pursuant to § 17.36(b)(6).

(b) *Definitions.* For the purposes of this section:

Camp Lejeune means any area within the borders of the U.S. Marine Corps Base Camp Lejeune or Marine Corps Air Station New River, North Carolina.

Camp Lejeune veteran means any veteran who served at Camp Lejeune on active duty, as defined in 38 U.S.C. 101(21), in the Armed Forces for at least 30 (consecutive or nonconsecutive) days during the period beginning on August 1, 1953, and ending on December 31, 1987. A veteran served at Camp Lejeune if he or she was stationed at Camp Lejeune, or traveled to Camp Lejeune as part of his or her professional duties.

Covered illness or condition means any of the following illnesses and conditions:

(i) Esophageal cancer;
(ii) Lung cancer;
(iii) Breast cancer;
(iv) Bladder cancer;
(v) Kidney cancer;
(vi) Leukemia;
(vii) Multiple myeloma;
(viii) Myelodysplastic syndromes;
(ix) Renal toxicity;
(x) Hepatic steatosis;
(xi) Female infertility;
(xii) Miscarriage;
(xiii) Scleroderma;
(xiv) Neurobehavioral effects; and
(xv) Non-Hodgkin's lymphoma.

(c) *Limitations.* For a Camp Lejeune veteran, VA will assume that a covered illness or condition is attributable to the veteran's active duty service at Camp Lejeune unless it is clinically determined, under VA clinical practice guidelines, that such an illness or condition resulted from a cause other than such service.

(d) *Copayments*—(1) *Exemption.* (i) Camp Lejeune veterans who served at Camp Lejeune between January 1, 1957, and December 31, 1987, are not subject to copayment requirements for hospital care and medical services provided for a covered illness or condition on or after August 6, 2012.

(ii) Camp Lejeune veterans who served at Camp Lejeune between August 1, 1953, and December 31, 1956, are not subject to copayment requirements for hospital care and medical services provided for a covered illness or condition on or after December 16, 2014.

(2) *Retroactive exemption.* VA will reimburse Camp Lejeune veterans for any copayments paid to VA for hospital care and medical services provided for a covered illness or condition if either of the following is true:

(i) For Camp Lejeune veterans who served at Camp Lejeune between January 1, 1957, and December 31, 1987, VA provided the hospital care or medical services to the Camp Lejeune veteran on or after August 6, 2012, and the veteran requested Camp Lejeune veteran status no later than September 24, 2016; or

(ii) For Camp Lejeune veterans who served at Camp Lejeune between August 1, 1953, and December 31, 1956, VA provided the hospital care or medical services to the Camp Lejeune veteran on or after December 16, 2014, and the veteran requested Camp Lejeune veteran status no later than July 18, 2018.

(The Office of Management and Budget has approved the information collection requirement in this section under control number 2900–0091.)

(Authority: 38 U.S.C. 1710)

[FR Doc. 2016–16917 Filed 7–15–16; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2012–0022; FRL–9949–09–Region 6]

Approval and Promulgation of Implementation Plans; Louisiana; Permitting of Greenhouse Gases

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is partially approving and partially disapproving a revision to the Louisiana State Implementation Plan (SIP) submitted on December 21, 2011. This revision outlines the State's program to regulate and permit emissions of greenhouse gases (GHGs) in the Louisiana Prevention of Significant Deterioration (PSD) program. We are approving these provisions to the extent that they address the GHG permitting requirements for sources already subject to PSD for pollutants other than GHGs. We are disapproving these provisions to the extent they require PSD permitting for sources that emit only GHGs above the thresholds triggering the requirement to obtain a PSD permit since that is no longer consistent with federal law. The EPA is taking this action under section 110 and part C of the Clean Air Act (CAA or Act).

DATES: This rule is effective on August 17, 2016.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R06–OAR–2012–0022. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Ms. Adina Wiley, *wiley.adina@epa.gov,* (214) 665–2115.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," and "our" means the EPA.

I. Background

The background for this action is discussed in detail in our May 6, 2016 proposal. *See* 81 FR 27382. In that document we proposed to approve as revisions to the Louisiana SIP, the revisions to the Louisiana PSD permitting program submitted on December 21, 2011, that provide the State the authority to regulate and permit emissions of GHGs from Step 1 sources in the Louisiana PSD program. We also proposed to disapprove the provisions submitted on December 21, 2011, that would enable the State of Louisiana to regulate and permit Step 2 sources under the Louisiana PSD program because the submitted provisions were no longer consistent with federal laws.

Our proposed action also corrected an omission in the EPA's August 19, 2015, proposed approval of the Louisiana Major New Source Review program, where we did not explicitly propose approval of a portion of the definition of "major stationary source." To correct this omission, we provided an additional opportunity for the public to comment on the revisions to the definition of "major stationary source" at LAC 33:III.509(B) submitted on December 20, 2005 as subparagraph (e), but was moved to subparagraph (f) in the December 21, 2011 submittal.

II. Response to Comments

We received comments from the Louisiana Department of Environmental Quality (LDEQ). Our responses are provided below.

Comment 1: The LDEQ commented that the State initiated rulemaking AQ358 on January 20, 2016, to remove the PSD GHG Step 2 permitting provisions. The rulemaking was promulgated on April 20, 2016, after no comments were received during the public comment period. Therefore, LDEQ's PSD program no longer contains permitting requirements for Step 2 sources. The LDEQ also submitted copies of the AQ358 rulemaking for reference.

Response 1: We recognize that the LDEQ has completed a rulemaking to remove the Step 2 GHG permitting provisions from the LDEQ PSD program consistent with our proposed partial disapproval. Today's final action disapproves the Step 2 provisions that were submitted for the EPA's consideration as a revision to the Louisiana SIP. No further actions are necessary on the part of the LDEQ to remove the Step 2 provisions adopted by the LDEQ on April 20, 2011 and submitted December 21, 2011, from our consideration. Further, today's final action also removes the portion of the Louisiana SIP at 40 CFR 52.986(c) where the EPA narrowed our approval of the Louisiana PSD SIP to apply to Step 2 permitting. *See* 75 FR 82536, December 30, 2010.

Comment 2: The LDEQ provided comment on the EPA's interpretation of the "automatic rescission provisions" under LAC 33:III.501(C)(14). Specifically, the LDEQ commented that "In the event of a "change in federal law" or a Supreme Court or D.C. Circuit "order which limits or renders ineffective the regulation" of GHGs under Part C of Title I of the Clean Air Act, LDEQ will provide notice to the general public and regulated community if such law or order will impact how LDEQ's [*sic*] administers its PSD program under LAC 33:III.509. In addition, LDEQ will ensure that any such changes are consistent with EPA's interpretation of the law or order."

Response 2: The EPA appreciates the comment from the LDEQ and the affirmation that the LDEQ will provide notice to the general public and community in the event of a change in federal law or a court decision that limits or renders ineffective the regulation of GHGs under the PSD program. We note that the LDEQ stated public notice would likely be through the LDEQ Web site; we find this method to be sufficient to satisfy the requirements of section 110(l) of the CAA.

III. Final Action

We are approving the following revisions to the Louisiana SIP submitted on December 21, 2011. The revisions were adopted and submitted in accordance with the CAA and are consistent with the laws and regulations for PSD permitting of GHGs; therefore we are taking final action to approve these revisions under section 110 and part C of the Act.

- New provisions as LAC 33:III.501(C)(14) adopted on April 20, 2011 and submitted December 21, 2011;
- New definitions of "carbon dioxide equivalent" and "greenhouse gases" at LAC 33:III.509(B) adopted on April 20, 2011 and submitted December 21, 2011;
- Revisions to the definitions of "major stationary source" paragraphs (a) and (b) and "significant" at LAC 33:III.509(B) adopted on April 20, 2011 and submitted on December 21, 2011; and
- Revisions to the definition of "major stationary source" paragraph (e)

as submitted on December 20, 2005, and renumbered to paragraph (f) in the April 20, 2011 adoption submitted on December 21, 2011.

As a result of our final approval of the above revisions, the EPA is also removing the existing provisions at 40 CFR 52.986(c) under which the EPA narrowed the applicability of the Louisiana PSD program to regulate sources consistent with federal PSD permitting requirements.

We are disapproving the following severable portions of the December 21, 2011 Louisiana SIP submittal that establish GHG permitting requirements for Step 2 sources:

- Revisions to the definitions of "major stationary source" paragraph (c) and "significant" as it pertains to Step 2 sources, adopted on April 20, 2011 and submitted on December 21, 2011.

As a result of our final disapproval of the above revisions, the EPA is adding a new entry at 40 CFR 52.986(c) to reflect the disapproval of the PSD GHG Step 2 provisions. We are taking this final action under section 110 and part C of the Act; as such, we are not imposing sanctions as a result of this final disapproval. This final disapproval does not require the EPA to promulgate a Federal Implementation Plan because we are finding that the submitted provisions are inconsistent with federal laws for the regulation and permitting of GHG emissions.

IV. Incorporation by Reference

In this rule, we are finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, we are finalizing the incorporation by reference of the revisions to the Louisiana regulations as described in the Final Action section above. We have made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the EPA Region 6 office.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action proposes approval of the portions of the submitted revisions to State law for the regulation and permitting of GHG emissions consistent with federal requirements and proposes disapproval of the portions of the state laws that do not meet Federal requirements for the regulation and permitting of GHG emissions.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. There is no burden imposed under the PRA because this action proposes to disapprove submitted revisions that are no longer consistent with federal laws for the regulation and permitting of GHG emissions.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. This action proposes to disapprove submitted revisions that are no longer consistent with federal laws for the regulation and permitting of GHG emissions, and therefore will have no impact on small entities.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector. This action proposes to disapprove submitted revisions that are no longer consistent with federal laws for the regulation and permitting of GHG emissions, and therefore will have no impact on small governments.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. This action proposes to disapprove provisions of state law that are no longer consistent with federal laws for the regulation and permitting of GHG emissions; there are no requirements or responsibilities added or removed from Indian Tribal Governments. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of "covered regulatory action" in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it disapproves state permitting provisions that are inconsistent with federal laws for the regulation and permitting of GHG emissions.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations. This action is not subject to Executive Order 12898 because it disapproves state permitting provisions that are inconsistent with federal laws for the regulation and permitting of GHG emissions.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 16, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 7, 2016.

Ron Curry,

Regional Administrator, Region 6.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart T—Louisiana

■ 2. In § 52.970(c), the table titled "EPA Approved Louisiana Regulations in the Louisiana SIP" is amended by revising the entries for "Section 501" and "Section 509" under Chapter 5—Permit Procedures to read as follows:

§ 52.970 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED LOUISIANA REGULATIONS IN THE LOUISIANA SIP

State citation	Title/Subject	State approval date	EPA approval date	Comments
*	*	*	*	*
Chapter 5—Permit Procedures				
Section 501	Scope and Applicability	4/20/2011	7/18/2016, [Insert Federal Register citation].	
*	*	*	*	*
Section 509	Prevention of Significant Deterioration	12/20/2012	7/18/2016, [Insert Federal Register citation].	SIP does not include the provisions for Step 2 GHG permitting at "major stationary source" paragraph (c) or "significant" as adopted on April 20, 2011. SIP does not include the $PM_{2.5}$ SMC at LAC 33:III.509(I)(5)(a) from the 12/20/2012 adoption. LAC 33:III.509(I)(5)(a) is SIP-approved as of 10/20/2007 adoption.
*	*	*	*	*

* * * * *

■ 3. Section 52.986 is amended by revising paragraph (c) to read as follows:

§ 52.986 Significant deterioration of air quality.

* * * * *

(c) The revisions to the Louisiana SIP adopted on April 20, 2011, and submitted on December 21, 2011, establishing PSD permitting requirements for sources that are classified as major and thus required to obtain a PSD permit based solely on their potential GHG emissions ("Step 2" sources) at the definition of "major stationary source" paragraph (c) and the definition of "significant" at LAC 33:III.509(B), are disapproved as inconsistent with federal law for the regulation and permitting of GHGs.

[FR Doc. 2016–16791 Filed 7–15–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2016–0164; FRL–9949–07–Region 9]

Determination of Attainment of the 1-Hour Ozone National Ambient Air Quality Standard in the San Joaquin Valley Nonattainment Area in California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is determining that the San Joaquin Valley nonattainment area has attained the 1-hour ozone National Ambient Air Quality Standard. This determination is based on sufficient, quality-assured, and certified data for the 2012–2014 period. Ozone data collected in 2015 show continued attainment of the standard in the San Joaquin Valley.

DATES: This final rule is effective on August 17, 2016.

ADDRESSES: The EPA has established a docket for this action, identified by Docket ID Number EPA–R09–OAR–2016–0164. The index to the docket is available electronically at *http://www.regulations.gov* or in hard copy at the EPA Region IX office, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.*, copyrighted material), and some may not be publicly available in either location (*e.g.*, confidential business information). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed below.

FOR FURTHER INFORMATION CONTACT: Anita Lee, (415) 972–3958, or by email at *lee.anita@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean the EPA.

Table of Contents

I. Background
II. Public Comments
III. The EPA's Responses to Comments
IV. Final Action
V. Statutory and Executive Order Reviews

I. Background

On May 18, 2016, the EPA proposed to determine that the San Joaquin Valley ("Valley") 1-hour ozone nonattainment area had attained the 1-hour ozone National Ambient Air Quality Standard (NAAQS or "standard") based on sufficient, quality-assured, and certified data from the most recent three-year period (2012–2014).[1] We noted that preliminary data for 2015 were consistent with continued attainment in the San Joaquin Valley. The Valley covers approximately 23,000 square miles and includes all of Fresno, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare counties, as well as the western half of Kern County.[2]

In our proposed rule, we provided background information on the 1-hour ozone standard, the designations and classifications of the San Joaquin Valley under the Clean Air Act (CAA or "Act") for the 1-hour ozone standard, and the EPA's prior actions related to the 1-hour ozone standard in the Valley.[3] We also described how we determine whether an area's air quality meets the 1-hour ozone standard, and identified the relevant air monitoring agencies in the San Joaquin Valley and their respective ozone monitoring networks, network plans, and annual certifications of ambient air monitoring data.[4] In our proposed rule, we also discussed the requests, and associated analyses, submitted by the California Air Resources Board (CARB) and the San Joaquin Valley Air Pollution Control District ("District"), that the EPA find that the Valley has attained the 1-hour ozone standard.[5]

As discussed in our proposed rule, an area attains the 1-hour ozone standard if the highest three-year average of expected exceedances is less than or equal to 1 expected exceedance. Table 1 in our proposed rule summarized the expected 1-hour ozone exceedances, per year and as an average over the 2012–2014 period, at the regulatory monitoring sites in the San Joaquin Valley. During the 2012–2014 period, the highest three-year average of expected exceedances at any site in the Valley was 0.7 expected exceedances at Fresno—Sierra Skypark in Fresno County. At the time of our proposed determination, preliminary data for 2015 was available but not yet certified. We provided preliminary data for 2015 that showed continued attainment of the 1-hour ozone standard.[6] All three agencies operating regulatory monitoring sites in the San Joaquin Valley submitted their 2015 data certifications to the EPA by May 10, 2016, shortly following the release of our proposed rule.[7]

For this final action, we have repeated our review of the 2015 data now that the data have been certified to confirm that the data are consistent with continued attainment of the 1-hour ozone standard in the San Joaquin Valley. In Table 1 below, we supplement the corresponding table from our proposed rule with 2015 data. As shown in Table 1 below, the highest three-year average of expected exceedances at any site in the Valley for 2013–2015 was 0.4, at Fresno—Sierra Skypark in Fresno County. Based on complete, quality-assured, and certified data, the expected exceedances in Table 1 indicate continued attainment of the 1-hour ozone standard in the SJV over 2013–2015.[8]

TABLE 1—ONE-HOUR OZONE DATA FOR THE SAN JOAQUIN VALLEY ONE-HOUR OZONE NONATTAINMENT AREA[1]

Site (AQS ID)	Expected exceedances by year				Expected exceedances 3-yr average	
	2012	2013	2014	2015	2012–2014	2013–2015
FRESNO COUNTY:						
Clovis—Villa (06–019–5001)	0.0	0.0	0.0	0.0	0.0	0.0

---

[1] See 81 FR 31206 (May 18, 2016).

[2] See 40 CFR 81.305.

[3] See 81 FR 31206 at 31207 (May 18, 2016).

[4] *Id.* at 31208–31210.

[5] *Id.* at 31208.

[6] *Id.* at 31209, Table 1, footnote 1 citing to Quicklook Reports providing ambient air quality data from 2012–2015 in the docket for this action.

[7] The Regional Administrator for the EPA Region 9 office signed the proposed rule on May 3, 2016, and it was published in the **Federal Register** on May 18, 2016. The California Air Resources Board, the District, and the National Park Service all submitted their 2015 data certifications by May 10, 2016. See (1) letter from Ravi Ramalingam, Chief, Consumer Products and Air Quality Assessment Branch, Air Quality Planning and Science Division, CARB, to Elizabeth Adams, Acting Director, Air Division, EPA Region IX, certifying calendar year 2015 ambient air quality data and quality assurance data, dated May 10, 2016; (2) letter from Jon Klassen, Program Manager, SJVAPCD, to Deborah Jordan, Director, Air Division, EPA Region IX, certifying calendar year 2015 ambient air quality data and quality assurance data, dated May 9, 2016; and (3) letter from Barkley Sive, Program Manager, NPS, to Lew Weinstock, EPA, certifying 2015 ozone data, dated April 27, 2016.

[8] As discussed in our proposed rule, a "complete" data set for determining attainment of the ozone standard is generally one that includes three years of data with an average percent of days with valid monitoring data greater than 90 percent with no single year less than 75 percent. The 2013–2015 data summarized in Table 1 from all of the regulatory sites meet this criterion. See June 20, 2016 spreadsheet titled "20160620_QLRpt_SJV_1hrO3_2012–2015.xlsx," in the docket for this final action.

TABLE 1—ONE-HOUR OZONE DATA FOR THE SAN JOAQUIN VALLEY ONE-HOUR OZONE NONATTAINMENT AREA[1]—Continued

Site (AQS ID)	Expected exceedances by year				Expected exceedances 3-yr average	
	2012	2013	2014	2015	2012–2014	2013–2015
Fresno—Drummond Street (06–019–0007)	1.0	0.0	0.0	1.0	0.3	0.3
Fresno—Garland (06–019–0011)	1.0	0.0	0.0	0.0	0.3	0.0
Fresno—Sierra Skypark (06–019–0242)	1.0	0.0	1.1	0.0	0.7	0.4
Parlier (06–019–4001)	1.0	0.0	0.0	0.0	0.3	0.0
Tranquility (06–019–2009)	0.0	0.0	0.0	0.0	0.0	0.0
KERN COUNTY:						
Arvin—Di Giorgio (06–029–5002)	0.0	0.0	0.0	0.0	0.0	0.0
Bakersfield—Muni (06–029–2012)	0.0	0.0	0.0	0.0	[2]0.0	0.0
Bakersfield—California (06–029–0014)	0.0	0.0	0.0	0.0	0.0	0.0
Edison (06–029–0007)	0.0	0.0	0.0	0.0	0.0	0.0
Maricopa (06–029–0008)	0.0	0.0	0.0	0.0	0.0	0.0
Oildale (06–029–0232)	0.0	0.0	0.0	0.0	0.0	0.0
Shafter (06–029–6001)	0.0	0.0	0.0	0.0	0.0	0.0
KINGS COUNTY:						
Hanford—Irwin (06–031–1004)	0.0	0.0	0.0	0.0	0.0	0.0
MADERA COUNTY:						
Madera—Pump Yard (06–039–0004)	0.0	0.0	0.0	0.0	0.0	0.0
Madera—City (06–039–2010)	0.0	0.0	0.0	0.0	0.0	0.0
MERCED COUNTY:						
Merced—Coffee (06–047–0003)	0.0	0.0	0.0	0.0	0.0	0.0
SAN JOAQUIN COUNTY:						
Stockton—Hazelton (06–077–1002)	0.0	0.0	0.0	0.0	0.0	0.0
Tracy—Airport (06–077–3005)	0.0	0.0	0.0	0.0	0.0	0.0
STANISLAUS COUNTY:						
Modesto—14th Street (06–099–0005)	0.0	0.0	0.0	0.0	0.0	0.0
Turlock (06–099–0006)	0.0	0.0	0.0	0.0	0.0	0.0
TULARE COUNTY:						
Porterville (06–107–2010)	0.0	0.0	0.0	0.0	0.0	0.0
Sequoia National Park—Ash Mountain (06–107–0009)	0.0	0.0	0.0	0.0	0.0	0.0
Visalia—Church Street (06–107–2002)	0.0	0.0	0.0	0.0	0.0	0.0

[1] Source: Quicklook Report, "20160620_QLRpt_SJV_1hrO3_2012–2015.pdf," June 20, 2016; and "20160620_QLRpt_SJV_1hrO3_2012–2015.xlsx," June 20, 2016 (in the docket for this final action).

[2] Based on CARB's missing data analysis for this site, at most one exceedance could have been recorded during the first half of 2012 if the site had been operational during that period. Assuming such an exceedance had occurred, the 3-year average of expected exceedances for the 2012–2014 period at the Bakersfield-Municipal Airport site would have been 0.3, which is less than the corresponding value at Fresno—Sierra Skypark (0.7) and less than the NAAQS.

We proposed to determine that the San Joaquin Valley has attained the 1-hour ozone standard based on our analysis of the ambient air quality data, as well as our review of 1-hour ozone trends in the Valley, data completeness, and the adequacy of the ozone monitoring network.[9] We noted that if we finalize the proposed determination, to the extent not already fulfilled, the requirements for the state to submit attainment demonstrations and associated reasonably available control measures, reasonable further progress plans, contingency measures for failure to attain or make reasonable progress and other plans related to attainment of the 1-hour ozone standard for San Joaquin Valley shall be suspended until such time as the area is redesignated as attainment for the current ozone NAAQS or a redesignation substitute for the 1-hour ozone standard is approved, at which time the requirements no longer apply.[10] If, however, prior to such redesignation or approval of such redesignation substitute, the EPA determines that San Joaquin Valley has violated the 1-hour ozone NAAQS, then the area is again required to submit such attainment-related plans.[11]

---

[9] See 81 FR 31206, at 31208–31211 (May 18, 2016).

II. Public Comments

We solicited comment on the proposed determination of attainment and opened a 30-day public comment period. The comment period closed on June 17, 2016. During the comment period, we received a comment from a member of the public in support of the proposal, and a comment letter from the Western States Petroleum Association (WSPA). WSPA also expressed support for the proposed attainment determination but recommended concurrent revocation of the District's penalty fee rule based on the District's demonstration that the attainment of the 1-hour ozone standard is due to permanent and enforceable emissions reductions and based on the sunset clause in the penalty fee rule itself. We respond to WSPA's comment in the following section of this document.

III. The EPA's Responses to Public Comments

In our proposed rule, we noted that in addition to the request for a clean data determination, the District provided documentation in its staff report intending to support a finding that attainment of the 1-hour ozone standard is due to permanent and enforceable emission reductions. As discussed in our proposed rule, the EPA's final implementation rule for the 2008 ozone standard established a mechanism, referred to as a "redesignation substitute," through which an area may shift to contingency status those requirements, such as penalty fee program requirements under CAA section 185, to which an area had remained subject under the EPA's anti-backsliding regulations governing the transition from revoked ozone standards (such as the 1-hour ozone standard) to current ozone standards.

To invoke the redesignation substitute, a state must submit two things: (1) A demonstration that the area has attained the revoked ozone NAAQS due to permanent and enforceable emission reductions, and (2) a demonstration that the area will maintain the revoked NAAQS for 10 years from the date of the EPA's approval of this showing.[12] The District submitted the first required demonstration to the EPA but did not submit the second required component of the redesignation substitute mechanism, *i.e.,* the demonstration that the area will maintain the 1-hour ozone standard for 10 years. Because neither the state nor the District has submitted a complete demonstration required to invoke the redesignation substitute mechanism, we stated in our proposed rule that action on a single element (*i.e.,* the demonstration of attainment due to permanent and enforceable emissions reductions) was not appropriate without the second required element (*i.e.,* the 10-year maintenance demonstration). When the state submits a demonstration that the San Joaquin Valley will maintain the 1-hour ozone standard for 10 years, we will review and consider whether both demonstrations together meet the requirements of the redesignation substitute mechanism for the 1-hour ozone standard.

Moreover, we note that the District's penalty fee rule does not automatically sunset upon the EPA's final determination of attainment for the 1-hour ozone standard. The penalty fee rule (*i.e.,* District Rule 3170 ("Federally Mandated Ozone Nonattainment Fee") provides, in relevant part:

> "The fees established by this rule shall cease to be applicable when the San Joaquin Valley Air Basin (SJVAB) has met the revoked federal one-hour ambient air quality standard for ozone.
>
> For the purposes of this rule, the San Joaquin Valley Air Basin shall have met the revoked federal one-hour ambient air quality standard for ozone upon EPA's determination, through notice-and-comment rulemaking, of concurrence with a demonstration by the APCO and the California Air Resources Board that the average number of days per calendar year with maximum hourly average concentration above 0.12 ppm is less than or equal to one (1), for each monitor. To make this demonstration, the APCO will, using all available quality assured monitoring data, calculate at each monitor the average number of days over the standard per year during a three-year period according to the procedures found in 40 CFR part 50 Appendix H, and show that the improvement in air quality is due to permanent and enforceable emissions reductions."

Thus, under the terms of the penalty fee rule, the fee provisions do not sunset simply upon the EPA's determination of attainment of the 1-hour ozone standard. The EPA's concurrence on the demonstration that attainment of the standard is due to permanent and enforceable emissions reductions is also a prerequisite to triggering the sunset clause. While the District has submitted such a demonstration, we indicated in our proposed rule and reiterate above that we are taking no action on the District's demonstration at this time. We will consider the District's demonstration in a separate rulemaking if and when it is supplemented with the 10-year maintenance demonstration element also needed to invoke the redesignation substitute mechanism in 40 CFR 51.1105(b).

IV. Final Action

Based on the analyses in our proposed rule of ambient air quality data, 1-hour ozone trends in the Valley, and the adequacy of the monitoring network in the Valley, as well as our review of 2015 data in this final rule indicating continued attainment of the standard, we are taking final action to determine that the San Joaquin Valley nonattainment area has attained the 1-hour ozone standard. This determination is based on sufficient, quality-assured, and certified data for the period 2012–2014.

V. Statutory and Executive Order Reviews

This action finalizes a determination based on air quality data and does not impose additional requirements beyond those imposed by state law. For that reason, this final action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because

---

[10] See 40 CFR 51.1118.

[11] *Id.*

[12] 40 CFR 51.1105(b).

application of those requirements would be inconsistent with the CAA; and,

- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this final clean data determination does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000) because the SIP obligations discussed herein do not apply to Indian Tribes, and thus will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 16, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Volatile organic compounds.

Dated: June 30, 2016.

Deborah Jordan,

Acting Regional Administrator, Region IX.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

■ 2. Section 52.282 is amended by adding paragraph (h) to read as follows:

§ 52.282 Control strategy and regulations: Ozone

* * * * *

(h) *Determination of attainment.* EPA has determined that, as of August 17, 2016, the San Joaquin Valley 1-hour ozone nonattainment area has attained the 1-hour ozone standard, based upon sufficient, quality-assured and certified ambient air quality monitoring data for 2012–2014.

[FR Doc. 2016–16792 Filed 7–15–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2016–0051; FRL—9949–18–Region 10]

Extension of the Attainment Date for the Oakridge, Oregon 24-hour $PM_{2.5}$ Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing its decision to grant a 1-year extension of the attainment date for the Oakridge, Oregon nonattainment area to meet the 2006 24-hour $PM_{2.5}$ NAAQS from December 31, 2015 to December 31, 2016, on the basis that the State has met the criteria for such an extension under the Clean Air Act (CAA).

DATES: This final rule is effective August 17, 2016.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R10–OAR–2016–0051. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.*, Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Air Planning Unit, Office of Air and Waste, EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101. The EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: For information please contact Justin Spenillo at (206) 553–6125, *spenillo.justin@epa.gov* or by using the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background Information
II. Final Action
III. Statutory and Executive Orders Review

I. Background Information

On May 18, 2016, the EPA proposed to grant a 1-year extension of the attainment date for the Oakridge, Oregon nonattainment area to meet the 2006 24-hour $PM_{2.5}$ NAAQS from December 31, 2015 to December 31, 2016, on the basis that the State has met the criteria for such an extension under the CAA (81 FR 31202). An explanation of the CAA requirements, a detailed analysis of the submittal, and the EPA's reasons for proposing approval were provided in the notice of proposed rulemaking, and will not be restated here. The public comment period for this proposed rule ended on June 17, 2016. The EPA received no comments on the proposal.

II. Final Action

The EPA finds that the State has met the criteria for receiving a 1-year extension to the Moderate area attainment date for the 2006 $PM_{2.5}$ NAAQS for the Oakridge NAA as provided in section 188(d) of the Act. The State is implementing the requirements and commitments in the applicable attainment plan for the $PM_{2.5}$ NAAQS in the area, and the 98th percentile 24-hour $PM_{2.5}$ air quality value for 2015 is below 35 $\mu g/m^3$. Accordingly, the State has established that it meets the criteria of section 188(d) as the EPA interprets those requirements for purposes of the 2006

$PM_{2.5}$ NAAQS. The EPA therefore exercises the discretion granted to the Administrator by section 188(d) of the CAA to extend the Moderate area attainment date for the Oakridge NAA from December 31, 2015 to December 31, 2016.

III. Statutory and Executive Orders Review

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and it will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 16, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 7, 2016.

Michelle L. Pirzadeh,

Acting Regional Administrator, Region 10.

[FR Doc. 2016–16789 Filed 7–15–16; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 92

[HHS–OCR–2015–0006]

RIN 0945–AA02

Nondiscrimination in Health Programs and Activities; Correction

AGENCY: Office of the Secretary (OS), HHS.

ACTION: Final rule; correction.

SUMMARY: This document corrects a typographical error that appeared in the final rule published in the **Federal Register** on May 18, 2016, entitled "Nondiscrimination in Health Programs and Activities."

DATES: This correction is effective on July 18, 2016.

FOR FURTHER INFORMATION CONTACT: Section 1557 mailbox at *1557@hhs.gov.* Eileen Hanrahan, (800) 368–1019 or (800) 537–7697 (TDD).

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2016–11458 of May 18, 2016 (81 FR 31375) (hereinafter referred to as the Section 1557 final rule) there is a typographical error that is discussed in the "Summary of Error," and further identified and corrected in the "Correction of Error" section below. The provision in this correction document is effective as if it had been included in the Section 1557 final rule published in the **Federal Register** on May 18, 2016.

II. Summary of Error

On page 31473, in Appendix A to Part 92—Sample Notice Informing Individuals About Nondiscrimination and Accessibility Requirements and Sample Nondiscrimination Statement: Discrimination is Against the Law, the telephone number provided for assistance with filing a civil rights complaint with the U.S. Department of Health and Human Services, Office for Civil Rights was incorrect. The correct telephone number is 800–368–1019.

III. Correction of Error

In FR Doc. 2016–11458 of May 18, 2016 (81 FR 31375), make the following correction:

1. On page 31473, first column, first full paragraph, line 22, "1–800–868–1019" is corrected to read "1–800–368–1019".

Dated: July 8, 2016.

Madhura C. Valverde,

Executive Secretary to the Department, Department of Health and Human Services.

[FR Doc. 2016–16680 Filed 7–15–16; 8:45 am]

BILLING CODE 4153–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 130717632–4285–02]

RIN 0648–XE729

International Fisheries; Pacific Tuna Fisheries; 2016 Bigeye Tuna Longline Fishery Closure in the Eastern Pacific Ocean

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS is temporarily closing the U.S. pelagic longline fishery for bigeye tuna for vessels over 24 meters in overall length in the eastern Pacific Ocean (EPO) through December 31, 2016, because the 2016 catch limit of 500 metric tons is expected to be reached. This action is necessary to prevent the fishery from exceeding the applicable catch limit established by the Inter-American Tropical Tuna Commission (IATTC) in Resolution C–13–01 (Multiannual Program for the Conservation of Tuna in the Eastern Pacific Ocean During 2014–2016).

DATES: The rule is effective 12 a.m. local time July 25, 2016, through 11:59 p.m. local time December 31, 2016.

FOR FURTHER INFORMATION CONTACT: Taylor Debevec, NMFS West Coast Region, 562–980–4066.

SUPPLEMENTARY INFORMATION: The United States is a member of the IATTC, which was established under the Convention for the Establishment of an Inter-American Tropical Tuna Commission signed in 1949 (Convention). The Convention provides an international agreement to ensure the effective international conservation and management of highly migratory species of fish in the IATTC Convention Area. The IATTC Convention Area, as amended by the Antigua Convention, includes the waters of the EPO bounded by the coast of the Americas, the 50° N. and 50° S. parallels, and the 150° W. meridian.

Pelagic longline fishing in the EPO is managed, in part, under the Tuna Conventions Act as amended (Act), 16 U.S.C. 951–962. Under the Act, NMFS must publish regulations to carry out recommendations of the IATTC that have been approved by the Department of State (DOS). Regulations governing fishing by U.S. vessels in accordance with the Act appear at 50 CFR part 300, subpart C. These regulations implement IATTC recommendations for the conservation and management of highly migratory fish resources in the EPO.

In 2013, the IATTC adopted Resolution C–13–01, which establishes an annual catch limit of bigeye tuna for longline vessels over 24 meters. For calendar years 2014, 2015, and 2016, the catch of bigeye tuna by longline gear in the IATTC Convention Area by fishing vessels of the United States that are over 24 meters in overall length is limited to 500 metric tons per year. With the approval of the DOS, NMFS implemented this catch limit by notice-and-comment rulemaking under the Act (79 FR 19487, April 9, 2014, and codified at 50 CFR 300.25).

NMFS, through monitoring the retained catches of bigeye tuna using logbook data submitted by vessel captains and other available information from the longline fisheries in the IATTC Convention Area, has determined that the 2016 catch limit is expected to be reached by July 25, 2016. In accordance with 50 CFR 300.25(b), this **Federal Register** notice announces that the U.S. longline fishery for bigeye tuna in the IATTC Convention Area will be closed for vessels over 24 meters in overall length starting on July 25, 2016, through the end of the 2016 calendar year. The 2017 fishing year is scheduled to open on January 1, 2017; the bigeye tuna catch limit for longline vessels over 24 meters in overall length has yet to be determined for 2017. The IATTC will meet in October 2016 and is scheduled to address tropical tuna conservation and management, including the catch limit for large longline vessels. Any measures adopted by the IATTC in October 2016 would subsequently be implemented by NMFS via rulemaking.

During the closure, a U.S. fishing vessel over 24 meters in overall length may not be used to retain on board, transship, or land bigeye tuna captured by longline gear in the IATTC Convention Area, except as follows:

- Any bigeye tuna already on board a fishing vessel on July 25, 2016, may be retained on board, transshipped, and/or landed, to the extent authorized by applicable laws and regulations, provided all bigeye tuna are landed within 14 days after the effective date of this rule, that is, no later than August 8, 2016.
- In the case of a vessel that has declared to NMFS that the current trip type is shallow-set longlining, the 14-day limit to land all bigeye in the previous paragraph is waived. However, the prohibition on any additional retention of bigeye tuna still applies as of July 25, 2016.

Other prohibitions during the closure include the following:

- Bigeye tuna caught by a United States vessel over 24 meters in overall length with longline gear in the IATTC Convention Area may not be transshipped to a fishing vessel unless that fishing vessel is operated in compliance with a valid permit issued under 50 CFR 660.707 or 665.801.[1]
- A U.S. fishing vessel over 24 meters in overall length that is not on a declared shallow-set longline trip may not be used to fish in the Pacific Ocean using longline gear both inside and outside the IATTC Convention Area during the same fishing trip, with the exception of a fishing trip that was already in progress when the prohibitions were put into effect.
- If a vessel over 24 meters in overall length not on a declared shallow-set longline trip is used to fish in the Pacific Ocean using longline gear outside the IATTC Convention Area, and the vessel enters the IATTC Convention Area at any time during the same fishing trip, the longline gear on the fishing vessel must be stowed in a manner so as not to be readily available for fishing. Specifically, the hooks, branch lines, and floats must be stowed and not available for immediate use, and any power-operated mainline hauler on deck must be covered in such a manner that it is not readily available for use.

Classification

NMFS has determined there is good cause to waive prior notice and opportunity for public comment pursuant to 5 U.S.C. 553(b)(B). This action is based on the best available information and is necessary for the conservation and management of bigeye tuna. Compliance with the notice and comment requirement would be impracticable and contrary to the public interest because NMFS would be unable to ensure that the 2016 bigeye tuna catch limit applicable to longline vessels over 24 meters is not exceeded. The annual catch limit is an important mechanism to ensure that the United States complies with its international obligations in preventing overfishing and managing the fishery at optimum yield. Moreover, NMFS previously solicited, and considered, public comments on the rule that established the catch limit (79 FR 19487, April 9, 2014), including a provision for issuing a notice to close the fishery, if necessary, to prevent exceeding the catch limit. For the same reasons, NMFS has also determined there is good cause to waive the requirement for a 30-day delay in effectiveness under 5 U.S.C. 553(d)(3).

---

[1] In 50 CFR 300.25(b)(4)(ii), the reference to § 665.21 is outdated. The former 50 CFR 665.21 has been recodifed to § 665.801.

This action is required by § 300.25(b) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 951 *et seq.*

Dated: July 13, 2016.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–16893 Filed 7–13–16; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 151211999–6343–02]

RIN 0648–XE720

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Georges Bank Cod Trimester Total Allowable Catch Area Closure for the Common Pool Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; area closure.

SUMMARY: This action closes the Georges Bank Cod Trimester Total Allowable Catch Area to Northeast multispecies common pool vessels fishing with trawl gear, sink gillnet gear, and longline/hook gear for the remainder of Trimester 1, through August 31, 2016. The closure is required by regulation because the common pool fishery has caught 90 percent of its Trimester 1 quota for Georges Bank cod. This closure is intended to prevent an overage of the common pool's quota for this stock.This action is effective July 13, 2016, through August 31, 2016.

FOR FURTHER INFORMATION CONTACT: Liz Sullivan, Fishery Management Specialist, (978) 282–8493.

SUPPLEMENTARY INFORMATION: Federal regulations at § 648.82(n)(2)(ii) require the Regional Administrator to close a common pool Trimester Total Allowable Catch (TAC) Area for a stock when 90 percent of the Trimester TAC is projected to be caught. The closure applies to all common pool vessels fishing with gear capable of catching that stock for the remainder of the trimester.

As of July 11, 2016, the common pool fishery caught between 79 and 89 percent of the Trimester 1 TAC (3.3 mt) for Georges Bank (GB) cod. We project that 90 percent of the Trimester 1 TAC will be caught within a few days. The fishing year 2016 common pool sub-annual catch limit (sub-ACL) for GB cod is 13.2 mt.

Effective July 13, 2016, the GB Cod Trimester TAC Area is closed for the remainder of Trimester 1, through August 31, 2016, to all common pool vessels fishing with trawl gear, sink gillnet gear, and longline/hook gear. The GB Cod Trimester TAC Area consists of statistical areas 521, 522, 525, and 561. The area reopens at the beginning of Trimester 2 on September 1, 2016.

If a vessel declared its trip through the Vessel Monitoring System (VMS) or the interactive voice response system, and crossed the VMS demarcation line prior to July 13, 2016, it may complete its trip within the Trimester TAC Area.

Any overage of the Trimester 1 or 2 TACs must be deducted from the Trimester 3 TAC. If the common pool fishery exceeds its sub-ACL for the 2016 fishing year, the overage must be deducted from the common pool's sub-ACL for fishing year 2017. Any uncaught portion of the Trimester 1 and Trimester 2 TACs is carried over into the next trimester. However, any uncaught portion of the common pool's sub-ACL may not be carried over into the following fishing year.

Weekly quota monitoring reports for the common pool fishery are on our Web site at: *http://www.greateratlantic.fisheries.noaa.gov/ro/fso/MultiMonReports.htm.* We will continue to monitor common pool catch through vessel trip reports, dealer-reported landings, VMS catch reports, and other available information, and, if necessary, we will make additional adjustments to common pool management measures.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA, finds good cause pursuant to 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3) to waive prior notice and the opportunity for public comment and the 30-day delayed effectiveness period because it would be impracticable and contrary to the public interest.

Regulations require the Regional Administrator to close a trimester TAC area to the common pool fishery when 90 percent of the Trimester TAC for a stock has been caught. Updated catch information only recently became available indicating that the common pool fishery will catch 90 percent of its Trimester 1 TAC for GB cod in the week of July 11, 2016. The time necessary to provide for prior notice and comment, and a 30-day delay in effectiveness, prevents the immediate closure of the GB Cod Trimester 1 TAC Area. Delaying the effective date of a closure increases the likelihood that the common pool fishery will exceed its quota of GB cod to the detriment of this stock, which could undermine management objectives of the Northeast Multispecies Fishery Management Plan. Additionally, an overage of the common pool quota could cause negative economic impacts to the common pool fishery as a result of overage paybacks in a future trimester or fishing year.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 13, 2016.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–16891 Filed 7–13–16; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 81, No. 137

Monday, July 18, 2016

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 981

[Doc. No. AMS–SC–16–0045; SC16–981–2 PR]

Almonds Grown in California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement a recommendation from the Almond Board of California (Board) to increase the assessment rate established for the 2016–17 through the 2018–19 crop years from $0.03 to $0.04 per pound of almonds handled under the marketing order (order). Of the $0.04 per pound assessment, 60 percent (or $0.024 per pound) would be available as credit-back for handlers who conduct their own promotional activities. The assessment rate would return to $0.03 for the 2019–20 and subsequent crop years, and the amount available for handler credit-back would return to $0.018 per pound (60 percent). The Board locally administers the order and is comprised of growers and handlers of almonds grown in California. Assessments upon almond handlers are used by the Board to fund reasonable and necessary expenses of the program. The crop year begins August 1 and ends July 31. The $0.04 assessment rate would remain in effect until July 31, 2019. Beginning August 1, 2019, the assessment rate would return to $0.03 and would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by August 2, 2016.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or Internet: *http://www.regulations.gov.* Comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov.* All comments submitted in response to this proposed rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Andrea Ricci, Marketing Specialist or Jeffery Smutny, Regional Director, California Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906, or Email: with *Andrea.Ricci@ams.usda.gov* or *Jeffery.Smutny@ams.usda.gov.*

Small businesses may request information on complying with this regulation by contacting Antoinette Carter, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Antoinette.Carter@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Order No. 981, as amended (7 CFR part 981), regulating the handling of almonds grown in California, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (USDA) is issuing this proposed rule in conformance with Executive Orders 12866, 13563, and 13175.

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California almond handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable almonds beginning on August 1, 2016, through July 31, 2019. Beginning August 1, 2019, the assessment rate would return to the current $0.03 and would remain in effect indefinitely unless modified, suspended, or terminated.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This proposed rule would increase the assessment rate for the 2016–17 through 2018–19 crop years from $0.03 to $0.04 per pound of almonds received. Of the $0.04 per pound assessment, 60 percent (or $0.024 per pound) would be available as credit-back for handlers who conduct their own promotional activities. The assessment rate would return to $0.03 for the 2019–20 and subsequent crop years, and the amount available for handler credit-back would return to $0.018 per pound (60 percent).

The California almond marketing order provides authority for the Board, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Board are growers and handlers of California almonds. They are familiar with the Board's needs and with the costs for goods and services in their local area and thus are in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Therefore, all directly affected persons have an opportunity to participate and provide input.

For the 2005–06 and subsequent crop years, the Board recommended, and

USDA approved, an assessment rate of $0.03 per pound that would continue in effect from crop year to crop year unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Board or other information available to USDA. Of the $0.03 per pound assessment, 60 percent ($0.018) per pound was made available as credit-back for handlers who conducted their own promotional activities.

The Board met on April 12, 2016, and unanimously recommended 2016–17 expenditures of $69,897,626 and an assessment rate of $0.04 per pound of almonds received. In comparison, last year's budgeted expenditures were $58,998,976. The proposed assessment rate of $0.04 is $0.01 higher than the rate currently in effect, and the credit-back portion of the assessment rate ($0.024 per pound) would be $0.006 more than the credit-back portion currently in effect.

The Board estimates a production increase of thirty percent, or 600 million pounds, by the 2019–20 crop year. This increase is nearly as much as their largest market currently consumes. Due to the size of the increase in forecasted production, the Board anticipates that increased market development projects and new marketing programs are required to successfully market the additional supply. Accordingly, the Board has recommended a new "Nut of Choice" marketing program.

The Board also anticipates needing additional funding for the industry's new "Crop of Choice" research program, as well as additional research to address concerns such as: Changing water supply and quality systems; air quality and how it relates to harvesting, pesticide, and energy use; and bee health.

The three-year higher assessment rate is needed to fund the increase in marketing and research activities. The Board anticipates that by the 2019–20 crop year, the increase in production assessed at the reinstated $0.03 per pound rate should generate sufficient revenue to cover the anticipated expenditures at that time. Therefore, beginning August 1, 2019, the assessment rate would return to $0.03 per pound.

The following table compares major budget expenditures recommended by the Board for the 2015–16 and 2016–17 crop years:

Budget expense categories	2015–16	2016–17
Operations Expenses	$7,904,000	$8,404,000
Board Accelerated Innovation Management (AIM) Initiatives	1,500,000	1,000,000
Crop of Choice Initiatives	0	5,625,000
Reputation Management	1,826,350	2,000,000
Production Research	1,843,331	1,843,331
Environmental Research	1,039,790	1,039,790
Scientific Affairs/Nutrition	1,640,000	1,640,000
Global Market Development	38,583,756	38,583,756
Nut of Choice Initiatives	0	5,100,000
Technical & Regulatory Affairs	1,045,500	1,045,500
Industry Services	2,436,220	2,436,220
Almond Quality & Food Safety	790,800	790,800
Corporate Technology	389,229	389,229

The assessment rate recommended by the Board was derived by considering the anticipated 30 percent production increase in the next three years, anticipated expenditures plus additional program expenses, current production level, and maintaining adequate operating reserve funds. In its recommendation, the Board utilized an estimate of 1,835,290,000 pounds of assessable almonds for the 2016–17 crop year. If realized, this would provide estimated assessment revenue of $62,262,213, which reflects credit-back reimbursements and organic exemptions. In addition, it is anticipated that $20,907,722 will be provided by other sources, including interest income, Market Access Program (MAP) funds, and operating reserve funds. When combined, revenue from these sources would be adequate to cover budgeted expenses.

Section 981.81 of the order authorizes the Board to maintain operating reserve funds consisting of an administrative-research portion and a marketing promotion portion, and states that the amount allocated to each portion shall not exceed six months' budgeted expenses for that activity area. Funds in the reserve at the end of the 2016–17 crop year are estimated to be approximately $16,581,222, well within the amount permitted by the order.

The proposed assessment rate would continue in effect until July 31, 2019. Beginning August 1, 2019, the assessment rate would return to $0.03 and would continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Board or other available information.

Although this assessment rate would be in effect for a specified period, the Board would continue to meet prior to or during each crop year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Board meetings are available from the Board or USDA. Board meetings are open to the public and interested persons may express their views at these meetings. USDA would evaluate Board recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Board's 2016–17 budget and those for subsequent crop years would be reviewed and, as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 6,800 almond growers in the production area and approximately 100 handlers subject to regulation under the marketing order.

Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $7,500,000 (13 CFR 121.201).

The National Agricultural Statistics Service (NASS) reported in its 2012 Agricultural Census that there were 6,841 almond farms in the production area (California), of which 6,204 had bearing acres. The following computation provides an estimate of the proportion of producers (farms) and agricultural service firms (handlers) that would be considered small under the SBA definitions.

The NASS Census data indicates that out of the 6,204 California farms with bearing acres of almonds, 4,471 (72 percent) have fewer than 100-bearing acres.

In its most recently reported crop year (2014), NASS reported an average yield of 2,150 pounds per acre, and a season average grower price of $3.19 per pound. A 100-acre farm with an average yield of 2,150 pounds per acre would produce about 215,000 pounds of almonds. At $3.19 per pound, that farm's production would be valued at $685,850.

Since Census of Agriculture indicates that the majority of California's almond farms are smaller than 100 acres, it could be concluded that the majority of growers had annual receipts from the sale of almonds in 2014–15 of less than $685,850, well below the SBA threshold of $750,000. Thus, over 70 percent of California's almond growers would be considered small growers according to SBA's definition.

According to information supplied by the Board, approximately 30 percent of California's almond handlers shipped almonds valued under $7,500,000 during the 2014–15 crop year, and would therefore be considered small handlers according to the SBA definition.

This proposal would increase the assessment rate collected from handlers for the 2016–17 through the 2018–19 crop years from $0.03 to $0.04 per pound of almonds received. Of the $0.04 per pound assessment, 60 percent (or $0.024 per pound) would be available as credit-back for handlers who conduct their own promotional activities, consistent with § 981.441 of the order's regulations and subject to Board approval. The Board unanimously recommended 2016–17 expenditures of $69,897,626 and an assessment rate of $0.04 per pound of almonds received. The proposed assessment rate of $0.04 is $0.01 higher than the 2015–16 rate, and the credit-back portion of $0.024 per pound would be $0.006 higher than the current credit-back portion of $0.018. The quantity of assessable almonds for the 2016–17 crop year is estimated at 1,835,290,000 pounds.

This would provide estimated assessment revenue of $62,262,213, which reflects credit-back reimbursements and organic exemptions. In addition, it is anticipated that $20,907,722 will be provided by other sources, including interest income, MAP funds, and operating reserve funds. When combined, revenue from these sources would be adequate to cover budgeted expenses.

The major expenditures recommended by the Board for the 2016–17 crop year include $8,404,000 for Operations Expenses, $1,000,000 for Board AIM Initiatives, $5,625,000 for Crop of Choice Initiatives, $2,000,000 for Reputation Management, $1,843,331 for Production Research, $1,039,790 for Environmental Research, $1,640,000 for Scientific Affairs/Nutrition, $38,583,756 for Global Market Development, $5,100,000 for Nut of Choice Initiatives, $1,045,500 for Technical & Regulatory Affairs, $2,436,220 for Industry Services, $790,800 for Almond Quality & Food Safety, and $389,229 for Corporate Technology.

Budgeted expenses for these items in 2015–16 were $7,904,000 for Operations Expenses, $1,500,000 for Board AIM Initiatives, $0 for Crop of Choice Initiatives, $1,826,350 for Reputation Management, $1,843,331 for Production Research, $1,039,790 for Environmental Research, $1,640,000 for Scientific Affairs/Nutrition, $38,583,756 for Global Market Development, $0 for Nut of Choice Initiatives, $1,045,500 for Technical & Regulatory Affairs, $2,436,220 for Industry Services, $790,800 for Almond Quality & Food Safety, and $389,229 for Corporate Technology.

The Board estimates a production increase of thirty percent, or 600 million pounds, by the 2019–20 crop year. This increase is nearly as much as their largest market currently consumes. Increased market development investment, as well as new marketing programs will be required to successfully market the additional supply. Additional investment in research is also needed to address concerns such as: Changing water supply and quality systems; air quality and how it relates to harvesting, pesticide, and energy use; and bee health. Accordingly, the three-year higher assessment rate is needed to fund the Board's new Nut of Choice marketing program and Crop of Choice research activities. The Board anticipates that by the 2019–20 crop year, the increased production assessed at the reinstated $0.03 per pound rate should generate sufficient revenue to cover the anticipated expenditures at that time.

Prior to arriving at this budget and assessment rate, the Board held a strategic planning session in February 2016. The Board also considered recommendations made from its various committees including the Global Market Development Committee, Production Research Committee, and Environmental Committee. Alternative expenditure levels were discussed, based upon the relative value of various activities to the almond industry. The Board ultimately determined that 2016–17 expenditures of $69,897,626 were appropriate, and the recommended assessment rate plus, income from other sources and operation reverse funds, would generate sufficient revenue to meet its expenses.

A review of historical information and preliminary information pertaining to the upcoming crop year indicates that the grower price for the 2016–17 season could range between $3.21 and $3.19 per pound of almonds. Therefore, the estimated assessment revenue for the 2016–17 crop year (disregarding any amounts credited pursuant to § 981.41 and § 981.441) as a percentage of total grower revenue could range between 1.24 and 1.25 percent, respectively.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to growers. However, these costs would be offset by the benefits derived by the operation of the marketing order. In addition, the Board's meeting was widely publicized throughout the California almond industry and all interested persons were invited to attend the meeting and participate in Board deliberations on all issues. Like all Board meetings, the April 12, 2016, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and informational impacts of this action on small businesses.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of

Management and Budget (OMB) and assigned OMB No. 0581–0178 (Vegetable and Specialty Crops.) No changes in those requirements are necessary as a result of this action. Should any changes become necessary, they would be submitted to OMB for approval.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large California almond handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this action.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/rules-regulations/moa/small-businesses.* Any questions about the compliance guide should be sent to Antoinette Carter at the previously-mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 15-day comment period is provided to allow interested persons to respond to this proposed rule. Fifteen days is deemed appropriate because: (1) The 2016–17 crop year begins on August 1, 2016, and the marketing order requires that the rate of assessment for each crop year apply to all assessable almonds handled during such crop year; (2) the Board needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (3) handlers are aware of this action which was unanimously recommended by the Board at a public meeting.

List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 981 is proposed to be amended as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

■ 1. The authority citation for 7 CFR part 981 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 981.343 is revised to read as follows:

§ 981.343 Assessment rate.

For the period August 1, 2016, through July 31, 2019, the assessment rate shall be $0.04 per pound for California almonds. Of the $0.04 assessment rate, 60 percent per assessable pound is available for handler credit-back. On and after August 1, 2019, an assessment rate of $0.03 per pound is established for California almonds. Of the $0.03 assessment rate, 60 percent per assessable pound is available for handler credit-back.

Dated: July 12, 2016.

Elanor Starmer,

Administrator, Agricultural Marketing Service.

[FR Doc. 2016–16814 Filed 7–15–16; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 93, 94, 95, 96, and 98

[Docket No. APHIS–2009–0095]

RIN 0579–AD10

Importation of Sheep, Goats, and Certain Other Ruminants

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations that govern the importation of animals and animal products to revise the conditions for the importation of live sheep, goats, and certain other non-bovine ruminants, and products derived from sheep and goats, with regard to transmissible spongiform encephalopathies such as bovine spongiform encephalopathy (BSE) and scrapie. We are proposing to remove BSE-related import restrictions on sheep and goats and most of their products, and to add import restrictions related to transmissible spongiform encephalopathies for certain wild, zoological, or other non-bovine ruminant species. The conditions we are proposing for the importation of specified commodities are based on internationally accepted scientific literature and will in general align our regulations with guidelines set out in the World Organization for Animal Health's Terrestrial Animal Health Code.

DATES: We will consider all comments that we receive on or before September 16, 2016.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2009-0095.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2009–0095, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2009-0095* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information concerning live animals, contact Dr. Oriana Beemer, Veterinary Medical Officer, Animal Permitting and Negotiating Services, National Import Export Services, VS, APHIS, 4700 River Road, Unit 39, Riverdale, MD 20737–1231; (301) 851–3300.

For information regarding ruminant products and for other information regarding this proposed rule, contact Dr. Christopher Robinson, Director, Animal Products Permitting and Negotiation Services, National Import Export Services, VS, APHIS, 4700 River Road, Unit 38, Riverdale, MD 20737–1231; (301) 851–3300.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

Need for the Regulatory Action

The current bovine spongiform encephalopathy (BSE)-related import regulations prohibit the importation of most live sheep and goats and most sheep and goat products from countries that are considered a risk for BSE. The current regulations allow the importation of non-pregnant slaughter or feeder sheep that are under 12 months old from Canada, certain products from sheep and goats, and sheep and goat semen. The conditions we are proposing for the importation of sheep and goats and their products are based on internationally accepted scientific literature and are consistent with World Organization for Animal Health (OIE) guidelines. We are proposing these amendments after conducting a thorough review of relevant scientific literature and a comprehensive evaluation of the issues and concluding that the proposed changes to the regulations will continue to guard against the introduction of transmissible spongiform encephalopathies (TSEs) such as BSE and scrapie into the United States, while allowing the importation of additional animals and animal products into this country.

Legal Authority for the Regulatory Action

Under the Animal Health Protection Act (AHPA, 7 U.S.C. 8301 *et seq.*), the Secretary of Agriculture has the authority to issue orders and promulgate regulations to prevent the introduction into the United States and the dissemination within the United States of any pest or disease of livestock. The Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA or Department) administers regulations in 9 CFR subchapter D that govern the exportation and importation of animals (including poultry) and animal products.

Summary of the Major Provisions of the Regulatory Action

We are proposing to remove BSE-related import restrictions on sheep and goats and the products derived from them. We are also proposing to add import restrictions related to TSEs for certain wild, zoological, or other non-bovine ruminant species. The existing BSE-related import restrictions also function as protection against the introduction of other TSEs, such as scrapie. While the BSE-related restrictions are no longer warranted for non-bovine ruminant products, it is necessary for us to add appropriate safeguards against the introduction of other TSEs for non-bovine ruminants.

Costs and Benefits

This proposed rule's impact would stem from its effect on U.S. imports of the affected commodities. Assuming an increase in imports of 1,966 metric tons (MT) in a net trade welfare model, we project a decrease in wholesale prices of a little more than 1 percent and a fall in domestic production of 615 MT. We estimate consumption would increase by 1,351 MT. As a result, producer welfare would decline by about $6.3 million and consumer welfare would increase by about $14.4 million, yielding an annual net welfare benefit of about $8.1 million. USDA does not have an estimate of the costs or benefits of the change in import restrictions for certain wild, zoological, or other non-bovine ruminant species, and we request comment on such an estimate.

II. Background

In order to guard against the introduction and spread of livestock pests and diseases, APHIS regulates the importation of animals and animal products into the United States. The regulations in 9 CFR parts 92, 93, 94, 95, 96, and 98 (referred to below as the regulations) govern the importation of certain animals, meat, other animal products and byproducts, hay and straw, embryos, and semen into the United States in order to prevent the introduction of various livestock pests and diseases.

Two of the diseases addressed by the current regulations regarding sheep and goats are scrapie and BSE. Scrapie and BSE belong to the family of diseases known as TSEs. In addition to scrapie and BSE, TSEs include, among other diseases, chronic wasting disease in deer and elk, and variant Creutzfeldt-Jakob disease in humans.

The current BSE-related import regulations restrict the importation of most live ruminants and ruminant-derived products and by-products. The regulations in § 94.18 provide for the importation of meat, meat products, and other edible products derived from bovines (*Bos indicus, Bos taurus* and *Bison bison*). The current regulations in § 93.419 allow only the importation of sheep and goats for immediate slaughter or restricted feeding for slaughter from Canada, provided that the sheep and goats are under 12 months of age and are not pregnant.

In a final rule published on December 4, 2013 (78 FR 72979–73008, Docket No. APHIS–2008–0010), we amended the BSE-related import requirements for *B. indicus, B. taurus, B. bison,* and removed the BSE-related import restrictions on camelids and cervids from any region.[1] However, that rule did not address BSE-related restrictions on domesticated sheep and goats or other non-bovine ruminant species. We believe that further refinement of the regulations is in order given the latest scientific information regarding BSE and scrapie. In this proposed rule, therefore, we are proposing to amend the regulations regarding BSE and scrapie as they apply to the importation of sheep and goats and products derived from sheep and goats, as well as to other ruminant species that are not bovines, cervids, and camelids. We first discuss the changes we are proposing regarding BSE and sheep and goats, then the changes we are proposing regarding scrapie. Lastly, we address the changes we are proposing for other non-bovine ruminants with respect to TSEs generally.

In addition to these changes, we are also proposing to establish provisions that would allow the importation, in specific cases, of other ruminants that would not otherwise be eligible for importation due to TSEs, if the Administrator determines that the disease risk posed by the animals can be adequately mitigated through pre-entry and post-entry mitigation measures. Conversely, we are proposing that certain ruminants whose importation is not currently restricted due to TSEs would, in specific cases, be subject to specified pre-entry and post-entry requirements, if the Administrator determines that the measures are necessary to guard against the transmission of TSEs to livestock in the United States. These provisions are discussed in more detail in this document under the heading "Zoological Ruminants."

Nature of BSE

As noted, BSE belongs to the family of diseases known as TSEs. All TSEs affect the central nervous systems of the infected animals. However, the distribution of infectivity in the body of the animal and mode of transmission differ according to the species and the TSE agent.

The agent that causes BSE has yet to be fully characterized. The theory that is most accepted in the international scientific community is that the agent is an abnormal form of a normal protein known as cellular prion protein. The BSE agent does not evoke a traditional immune response or inflammatory reaction in host animals. BSE is confirmed by post-mortem examination of an animal's brain tissue, which may include detection of the abnormal form of the prion protein in the brain tissues. The pathogenic form of the protein is both less soluble and more resistant to degradation than the normal form. The BSE agent is resistant to heat and to normal sterilization processes.

BSE is not a contagious disease, and therefore is not spread through casual contact between animals. Scientists believe that the primary route of transmission is through ingestion of feed that has been contaminated with a sufficient amount of tissue from an infected animal. This route of transmission can be prevented by excluding potentially contaminated materials from ruminant feed.

Current Regulations Regarding BSE

The protective measures APHIS has taken against BSE have evolved over the years, as scientific understanding of the disease has increased. From 1997 until 2005, the only two categories of regions listed in the CFR with regard to BSE were regions in which BSE was known to exist, and those regions that presented an undue risk of introducing BSE into the United States because their import requirements were less restrictive than those that would be acceptable for import into the United States and/or because the regions had inadequate surveillance. In a January 2005 final rule (70 FR 460–553, Docket No. 03–080–3), APHIS amended its regulations to recognize a category of regions that present a minimal risk of introducing BSE into the United States, even though BSE may have been diagnosed in the region. The December 4, 2013, final rule amended the BSE regulations to change the categories of regions in which BSE is known to exist. Formerly, we had used the following classifications: Regions of undue risk for BSE and BSE minimal-risk regions. In the final rule, we adopted the system used by the OIE of classifying areas as being either of negligible risk, controlled risk, or undetermined risk for BSE. Whether live bovines and bovine-derived products are eligible for importation into the United States, and under what conditions, is in many cases determined by the BSE category of the region from which the animal or product originates.

---

[1] To view the rule, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2008-0010.*

The prohibitions on the importation of animals, meat, and other animal products into the United States are set forth in 9 CFR parts 93, 94, 95, and 96. Section 93.401 prohibits the importation of any non-bovine ruminant that has been in a region listed in § 94.24(a). Section 94.24 restricts the importation of meat and edible products from ovines and caprines due to BSE. Section 94.25 restricts the importation from Canada of meat and edible products other than gelatin from sheep and goats, and § 94.26 provides for the importation of gelatin derived from horses or swine, or from sheep and goats that have not been in a region restricted because of BSE. Section 94.27 provides for the transit shipment of meat, meat products, and other edible products derived from bovines, ovines, or caprines that are otherwise prohibited importation into the United States in accordance with § 94.18 through § 94.26. Section 96.2 prohibits the importation of casings, except stomach casings, from ovines or caprines that originated in or were processed in any region listed in § 95.4(a)(4), unless certain conditions are met.

When the BSE regulations were codified in 1991 (56 FR 19794–19796, Docket No. 90–252), they applied to all ruminants. Over the past two decades, however, extensive research has been conducted regarding BSE. Based on the information now available, it does not appear to be necessary to continue to prohibit or restrict the importation of sheep and goats and their products with regard to BSE, except in certain limited situations. Therefore, we are proposing to amend the BSE regulations to remove the current prohibitions and restrictions regarding such commodities, except as noted. We discuss below the scientific literature regarding BSE and sheep and goats and the rationale for our proposed changes to the regulations.

Experiments dating back to the 1990s have demonstrated the ability of BSE to be transmitted to domestic sheep and goats via oral challenge and other routes of inoculation, and, in one study, for inoculated sheep to transmit BSE laterally (Foster, Hope et al. 1993; Foster, Parnham et al. 2001; Foster, Parnham et al. 2001; Jeffrey, Ryder et al. 2001; Bellworthy, Hawkins et al. 2005; Andreoletti, Morel et al. 2006; Bellworthy, Dexter et al. 2008; Konold, Bone et al. 2008). However, information on BSE transmission in sheep and goats that were not experimentally inoculated or exposed to experimentally inoculated sheep or goats is extremely limited. There have been only two retroactively diagnosed cases of naturally occurring BSE in goats. In these two cases there was no evidence of lateral spread.

In 2005, BSE in a goat was confirmed at the Community Reference Laboratory in Weybridge, United Kingdom. The goat was slaughtered in 2002 in France and was tested as part of a slaughter surveillance program. An epidemiologic investigation conducted at the time of the initial TSE diagnosis did not detect any additional cases in the herd. The goat and its entire herd were destroyed at the time the initial test results were received, and no additional TSE cases were detected. It is not known how the goat acquired BSE; however, because the goat was born prior to the enactment of a ruminant-to-ruminant feed ban, it is possible that consumption of infected ruminant protein was the route of inoculation (Eloit, Adjou et al. 2005; ProMED 2005).

A second naturally occurring case of BSE in a goat was confirmed in 2011 in the United Kingdom (U.K.) in a goat born in 1990 and evaluated as part of a retrospective study. This goat was also born prior to the enactment of strict BSE control measures in feed (Spiropoulos, Lockey, et al. 2011). There have been no other naturally occurring cases of BSE reported in sheep or goats. Based on the absence of detection of BSE in sheep and goats born after the effective implementation of feed bans, APHIS believes it is unlikely that BSE is being laterally transmitted within domestic sheep or goat populations.

Because of concerns that BSE may be present in sheep and goats, some countries have embarked on testing programs to detect BSE in these animals. Due to the clinical similarities between BSE and scrapie, surveillance programs for BSE in sheep and goats often target animals that have tested positive to TSE screening tests (sometimes using archived samples of animals that were presumed to have had scrapie) in order to increase the likelihood of finding a BSE-positive animal. Because the United Kingdom was the epicenter of the bovine BSE epizootic in the 1990s, most experts believe that if BSE were to exist within domestic sheep or goat populations, it would most likely occur and be detectable in the United Kingdom. To date, studies conducted in the United Kingdom have not detected any cases of BSE in domestic sheep (Gravenor, Ryder et al. 2003; Stack, Jeffrey et al. 2006) and only one case in a goat (Spiropoulos, Lockey, et al. 2011), despite the testing of thousands of animals, and have concluded that BSE does not appear to be amplifying through lateral transmission in these populations.

Additional estimates show that if BSE were present in U.K. domestic sheep populations, it would exist at an extremely low level. Two recent studies evaluated the potential prevalence of BSE in the domestic sheep population of the United Kingdom. In order to maximize efficiency, both studies used historical samples in which a TSE, presumably scrapie, had been detected. Additional testing was performed on these samples to determine if BSE, rather than scrapie, was responsible for the initial positive results. Neither study identified any cases of BSE, but both were able to determine that the highest likely prevalence of BSE in the U.K. sheep population was extremely low (Gravenor, Ryder et al. 2003; Stack, Jeffrey et al. 2006).

Since 2005, the European Commission has required that each index case of a TSE in a flock receive additional testing to determine if BSE is the diagnosis. Estimates of the likely prevalence of BSE in sheep have been made based on data collected during 2005 and 2006. With over 1.5 million sheep tested, it was calculated with 95 percent confidence that there were at most 0.3–0.5 cases (depending on the model used) of BSE per 10,000 healthy slaughter sheep in the European Union (EU) countries at highest risk for BSE

(United Kingdom, Ireland, France, and Portugal) (EFSA 2007). No cases of BSE in sheep have been reported since this study was published, so we would expect the risk to be lower if the calculation was repeated to include data from subsequent years.

Based on the evidence discussed above, we believe it is not warranted to continue to prohibit or restrict trade of live sheep and goats and the products of sheep and goats due to BSE, other than processed animal protein. We continue to consider processed animal protein containing materials derived from sheep and goats to be a BSE risk due to the possibility that such material has been commingled with bovine materials, and because one significant use of these materials is in animal feed. For these reasons, we would continue to restrict the importation of these commodities.

The changes we are proposing with regard to sheep and goats and BSE are consistent with the approach taken by the OIE. The OIE, of which the United States is a Member country, is the internationally recognized standard-setting body that develops science-based recommendations for the safe trade of animals and animal products. The World Trade Organization has recognized the OIE as the international forum for setting animal health standards, reporting global animal disease events, and presenting guidelines and recommendations on sanitary measures relating to animal health.

The OIE facilitates intergovernmental cooperation to prevent the spread of contagious diseases in animals by sharing scientific research among its members. The major functions of the OIE are to collect and disseminate information on the distribution and occurrence of animal diseases and to ensure that science-based standards govern international trade in animals and animal products. The OIE carries out its function through the development and revision of international standards for diagnostic tests, vaccines, and the safe international trade of animals and animal products.

The OIE develops risk-based standards, which are published in the OIE Terrestrial Animal Health Code (Code). As an OIE Member country, the United States reviews and, where appropriate, comments on all draft OIE chapters and revisions. As part of the U.S. consideration of OIE drafts, APHIS distributes these drafts to the U.S. livestock and aquaculture industries, veterinary experts in various U.S. academic institutions, and other interested persons for review and comment.

In addition, each year, prior to formulating its comments for the OIE annual meeting, APHIS makes available on its Web site those potential changes to the Code that the OIE has submitted to Member countries for comment, and accepts information and recommendations from the public regarding those proposed changes. Through its OIE Reference Laboratories and Collaborating Centers, APHIS also provides OIE Member countries with technical assistance and expert advice on disease surveillance and control and risk analysis, as well as diagnostic assistance, evaluation, and consultation.

Over the years, the OIE Member countries, including the United States, have agreed to amend the OIE guidelines for BSE based on increased scientific evidence regarding the disease. Current OIE recommendations regarding BSE in ruminants do not include any BSE-related measures for sheep and goats other than the general requirements applied to all ruminant meat and bone meal (processed animal proteins).

Importation of Live Ruminants

In this proposed rule, we would amend the regulations to remove most of the current BSE provisions regarding sheep and goats. Below, we identify specific sections and paragraphs in the regulations from which regulatory text relating to BSE and sheep and goats would be removed or revised.

§ 93.400 Definitions: We would remove the definition of *suspect for a transmissible spongiform encephalopathy* because this term would no longer appear in the regulations. We would also revise the definitions for *designated feedlot* and *flock*. The definition of *designated feedlot* is being changed to reference scrapie-related restrictions rather than BSE-related restrictions. The current definition of *flock* is being expanded to include goats as well as sheep. We would add definitions for *certified status, classical scrapie, country mark, flock of birth, flock of residence, goat, killed and completely destroyed, non-classical scrapie, sheep, transmissible spongiform encephalopathies (TSEs),* and *TSE-affected sheep or goat,* since these terms are currently not defined.

Specifically, we propose to define *certified status* as "a flock that has met the requirements equivalent to the Export Certified status of the U.S. Scrapie Flock Certification Program while participating in a program under the supervision of the national veterinary authority of the region of origin, as determined by an evaluation conducted by APHIS of the program." In the U.S. Scrapie Flock Certification Program, Export Certified flocks receive a high level of monitoring, including annual inspections and inspection of all cull animals, and are subject to official identification and recordkeeping requirements, among other things. Export Certified flocks in the United States are considered scrapie free. These requirements are consistent with OIE recommendations in Article 14.8.5 of the OIE Terrestrial Health Code.

We would define *classical scrapie* as "any form of scrapie that the Administrator has determined poses a significant risk of natural transmission" and *non-classical scrapie* as "any form of scrapie that the Administrator has determined poses a low risk of natural transmission." We are proposing these definitions to distinguish between strains of the disease that pose a significant risk of natural transmission and thus present a significant livestock disease risk, and those strains that pose a low risk of natural transmission and do not present a significant livestock disease risk.

We would define *country mark* as "a permanent mark approved by the Administrator for identifying a sheep or goat to its country of origin." We are proposing this definition to distinguish this mark from other forms of identification, such as eartags or backtags, that might be used on an animal. We are proposing to require the use of country marks for sheep and goats because this permanent identification allows APHIS to trace an animal back to the country of origin in the event that the animal shows symptoms of a TSE.

We would define *flock of birth* as "the flock into which a sheep or goat is born" and *flock of residence* as "the flock (1) within which an individual sheep or goat was born, raised, and resided until exported to the United States; or (2) in which the sheep or goat resided for breeding purposes for 60 days or more until exported to the United States; or (3) in which sheep and goats for export were assembled for export to the United States and maintained for at least 60 days immediately prior to export, without any addition of animals or contact with animals other than through birth, on a single premises, or on more than one premises under the same ownership and between which unrestricted movement occurred." We are proposing to add these two definitions to clarify to which flocks certain requirements pertain.

We would define *goat* as "any animal of the genus *Capra*" and *sheep* as "any animal of the genus *Ovis*" to clarify that the requirements for sheep and goats apply not only to domesticated sheep and goats, but also to wild animals of those genera which are also susceptible to scrapie.

We are proposing to define *killed and completely destroyed* as "killed, or maintained under quarantine in a manner that will prevent disease spread until the animal is no longer living; and the remains have been disposed of in a way that prevents disease spread" to clarify that sheep and goats known to be affected by TSEs are not to enter slaughter channels.

We are proposing to define *transmissible spongiform encephalopathies (TSEs)* as "A family of progressive and generally fatal neurodegenerative disorders thought to be caused by abnormal proteins, called prions, that typically produce characteristic microscopic changes, including but not limited to non-inflammatory neuronal loss, giving a spongiform appearance to tissues in the brains and central nervous systems of affected animals." The Administrator may make a determination that a disease meeting these general criteria is not a TSE of whose introduction or dissemination would cause adverse animal health or disease concerns and that animals affected by it would not be subject to the regulations if the disease presents a low risk of transmission.

We are proposing to define *TSE-affected sheep or goat* as "A sheep or goat suspected or known by the national veterinary authority of the region of origin to be infected with a transmissible spongiform encephalopathy prior to the disposal of the animal" in order to clarify to which animals the provisions would apply.

§ 93.404 Import Permits for Ruminants: We are proposing to add a new paragraph (a)(2) to this section to specify additional information that an importer would have to submit with the application for an import permit for sheep and goats. Specifically, we would require that, for sheep and goats imported for immediate slaughter or restricted feeding for slaughter, the slaughter establishment to which the animals will be imported, or the designated feedlot in which the animals will be maintained until moved to slaughter be specified. We need this information to validate that the animals are slaughtered and to rapidly locate the animals should the country of origin report a disease outbreak. It will also clarify that these animals are in, and are not to be removed from, slaughter channels.

For sheep and goats imported for purposes other than immediate slaughter or restricted feeding for slaughter, we would require that the importer provide the flock identification number if imported to a flock, and the premises or location identification number of the flock or other premises to which the animals are imported, as listed in the Scrapie National Database. If the sheep and goats originate in regions not free of classical scrapie, the importer would have to provide documentation showing that the animals have reached and maintained certified status in a scrapie flock certification program that has been evaluated and approved by the Administrator. The documentation would have to specify the address, or other means of identification, of the premises and flock of birth, and any other flocks in which the animal has resided. We need this information to ensure that a continuous previous health history is available for animals that may be considered for importation into the United States.

We are also proposing to add a new paragraph (a)(5) to this section to address mitigation measures to allow the importation of zoological ruminants. This change is discussed below under the heading "Zoological Ruminants."

Last, we would add a new paragraph (a)(6) which would provide for permits to be issued by the Administrator for sheep of certain classical scrapie-resistant genotypes, as determined by testing at the National Veterinary Services Laboratories (NVSL) or another laboratory approved by the Administrator. This would reduce import restrictions on animals found to be genetically resistant to scrapie.

Current paragraphs (a)(2), (a)(3),and (a)(4) would be redesignated as paragraphs (a)(3), (a)(4) and (a)(7), respectively.

§ 93.405 Health Certificate for Ruminants: Paragraph (a)(4) describes the information that must be included on a health certificate accompanying sheep or goats from Canada. We are proposing to remove this paragraph because paragraph (b), which contains additional requirements for health certificates for goats, would be revised to incorporate requirements for health certificates for sheep. These additional requirements would include some of the information currently required under paragraph (a)(4), because that information is relevant to animal diseases other than BSE. Paragraph (c), which currently contains additional requirements for health certificates for sheep, would be removed, and paragraph (d) would be redesignated as paragraph (c).

§ 93.419 Sheep and goats from Canada: This section would be removed and reserved. Provisions for the importation of sheep and goats from Canada would be moved to § 93.435.

§ 93.420 Ruminants from Canada for immediate slaughter other than sheep and goats: The reference in paragraph (a) to the provisions regarding sheep and goats for immediate slaughter in § 93.419 would be replaced by a reference to the provisions in § 93.435.

§ 93.424 Import permits and applications for inspection of ruminants (from Mexico): Paragraphs (a)(1) and (2) would be removed, and paragraph (a) would be revised to state that sheep and goats for immediate slaughter do not need to be accompanied by an import permit if entering the United States through a port on the U.S./Mexico border. Currently the regulations provide that wethers (castrated male sheep or goats) do not need to be accompanied by an import permit if they enter the United States from Mexico through land border ports, even if they are not being imported for immediate slaughter. We are proposing to remove this exemption because we need the information from the import permit to conduct a traceback investigation in the event of a disease outbreak.

§ 93.428 Sheep and goats and wild ruminants from Mexico: This section would be revised to refer to the scrapie provisions in § 93.435 which would also apply to sheep and goats from Mexico.

§ 93.435 Sheep and goats: This section would be revised to contain provisions for importing sheep and goats from anywhere in the world. The provisions for sheep and goats imported for immediate slaughter and restricted feeding for slaughter would be similar to the existing requirements for sheep and goats imported for those purposes from Canada, currently contained in § 93.419. The requirements for importing sheep and goats for other purposes, currently contained in § 93.435, would be updated to make them in general consistent with international standards, by limiting imports for these purposes to animals from classical scrapie-free countries or flocks, except as permitted by the Administrator under paragraph (a)(5) of § 93.404. This would allow for the importation of animals that are very low risk due to their genotype or other factors. We would also revise this section to establish a notice-based approach for recognizing regions as free of classical scrapie. The regulations would provide the Web address and a contact for requesting copies of the list of classical scrapie-free regions by mail, fax, or email. The regulations also would explain APHIS' process for adding or removing a region to or from the list.

This proposed action would allow more timely changes to the list than if we had to do it through rulemaking, as we do now. APHIS considers a disease to exist in a region when we receive reports of an outbreak of the disease in the region from veterinary officials of the national government of the region and/or the OIE, or from another source that the Administrator determines to be reliable, *e.g.*, APHIS inspectors based in foreign countries.

As it is now, when APHIS determines that a disease is present in a region and presents a potential threat to animal health in the United States, we would take immediate action to restrict imports from that region. We would no longer need to follow that action with an interim rule in the **Federal Register** to change text in the regulations. Instead, we would immediately list the region on the APHIS Web site and announce the listing through a notice, rather than a rule, in the **Federal Register**. The notice would provide an opportunity for public comment.

We would add a region to a list of regions we recognize as free of classical scrapie only after completing an evaluation and making it available for public comment. We would do this through a notice in the **Federal Register**. Following the close of the comment period, we would publish another notice responding to comments and announcing APHIS' decision. The criteria we are proposing for evaluating a region's classical scrapie disease status would be consistent with current scientific understanding, international standards, and 9 CFR part 92, "Importation of Animals and Animal Products: Procedures for Requesting Recognition of Regions." Additional details about the factors APHIS reviews to determine a region's status may be found on the APHIS Web site at *http://www.aphis.usda.gov/import_export/animals/reg_request.shtml.*

Zoological Ruminants

Section 93.404 of the regulations contains provisions regarding permits for the importation of ruminants into the United States. With several exceptions, ruminants are not eligible for importation if the importer has not first applied for and obtained an import permit from APHIS. Part 93 subpart D contains a number of provisions that specifically prohibit or restrict the importation of ruminants into the United States with regard to specified diseases, or that set forth risk mitigation measures that must be taken or agreed to before an import permit will be issued. Among the specific prohibitions and restrictions in current part 93 subpart D are those, discussed above, that prohibit the importation of live non-bovine ruminants from regions listed in § 94.24(a).

Currently, non-bovine ruminants other than sheep and goats from regions not listed in § 94.24(a) are not subject to any import restrictions with regard to BSE. We believe, however, that there is a certain category of ruminants that present enough of a potential risk of spreading TSEs that their importation should be prohibited unless certain risk mitigation measures are in place. This category of ruminants includes certain ruminants held in zoological facilities and certain wild ruminants. For the purposes of discussion, we will refer to such animals as zoological ruminants to distinguish them from domesticated sheep, goats, and bovines.

Scientific literature indicates that at least certain zoological ruminants are susceptible to TSEs caused by the BSE agent. In association with the BSE epidemic in domestic cattle in Europe, TSEs have been diagnosed in several species of zoo animals, all from the families Bovidae and Felidae. Sixteen cases of TSEs have been recorded from antelope in U.K. zoos including one nyala (*Tragelaphus angasi*), six eland (*Taurotragus oryx*), six greater kudu (*Tragelaphus strepsiceros*), one gemsbok (*Oryx gazelle*), one Arabian oryx (*Oryx leucoryx*), and one scimitar-horned oryx (*Oryx dammah*) (Travis and Miller 2003). The first recorded case was a nyala euthanized at a wildlife park in England in 1986, the same year that the first BSE cases in cattle were recognized (Wells, Scott et al. 1987; Jeffrey and Wells 1988). Reported cases of TSEs in zoo bovids peaked around 1991, and no additional cases in zoo antelope have been reported since 1996 (Kirkwood 2000).

Several lines of evidence support the hypothesis that at least some, if not all, of the spongiform encephalopathy cases diagnosed in zoo bovids were caused by the BSE agent. First, the cases in zoos coincide geographically and temporally with the BSE epidemic in Great Britain. Second, epidemiologic investigations indicated that all affected animals, or the herds into which they were born or moved, could have been exposed to feeds containing ruminant-derived protein or other potentially contaminated material (Kirkwood and Cunningham 1994). Finally, comparable patterns of incubation periods and pathologic effects were seen in mice inoculated with brain tissue homogenate from the affected nyala, an affected kudu, and BSE-affected cattle (Jeffrey, Scott et al. 1992).

The greater kudu, a non-domestic African antelope, appears to be particularly susceptible to BSE. Six of eight kudu that died in a small herd at the London Zoo from 1989 through 1992 were diagnosed with spongiform encephalopathy (Kirkwood and Cunningham 1994). The disease is presumed to have been introduced to the kudu herd through feeds containing ruminant-derived protein around the time of the BSE epidemic in U.K. cattle. However, some of the affected kudu were born after the elimination of the potentially contaminated feed from the premises, and one case occurred in a kudu born at another zoo and introduced to the affected herd (Kirkwood, Cunningham et al. 1994). Because most of the affected kudu did not consume feed containing ruminant-derived protein, it was postulated that the disease may have spread naturally in the herd, either by transmission between individuals or through contamination of the environment (Kirkwood, Cunningham et al. 1993).

The epidemiology of the TSE cases in kudu contrasts with BSE in cattle in several respects. The attack rate in the London Zoo kudu herd is notably higher than the attack rate seen in BSE affected cattle herds. The pattern of disease in antelope also differs from cattle affected with BSE, characterized by a younger average age of onset and a shortened clinical course (Kirkwood and Cunningham 1999). Additionally, infectivity in greater kudu with TSE is distributed in a wider range of tissues than in cattle with BSE (Cunningham, Kirkwood et al. 2004).

Information about the infectivity of tissues from TSE-affected zoological ruminants is limited to studies of tissue from four London Zoo kudus with spongiform encephalopathy. Fifteen of 32 kudu tissue homogenates transmitted BSE to mice. Of these, fresh central nervous, lymphoreticular, and distal ileum tissue indicated moderate or high levels of spongiform encephalopathy infectivity. Traces of infectivity were demonstrated in kudu spleen, lung, skin, conjunctiva, and salivary gland (Cunningham, Kirkwood et al. 2004).

A wide range of species in zoological collections were probably exposed to BSE-contaminated feed; new cases in other captive zoological species may emerge, or it is possible that some species may carry and transmit the disease without showing clinical signs. The possibility of transmission of BSE-related encephalopathy between members, or from mother to offspring, within herds of zoological ruminants, as suspected with the London Zoo kudus, cannot be ruled out. Although there is currently no evidence that TSEs exist in free-living zoological ruminants (veterinary authorities in southern African countries conducting passive surveillance in wildlife have not encountered any clinical cases or histopathological lesions compatible with TSEs (Horn, Bobrow et al.), active surveillance has not been implemented in any region of the world for TSEs in antelope or free-living Caprinae.

Many of the non-domestic ruminants are endangered species. The scimitar-horned oryx, for example, is listed as "Extinct in the Wild" on the International Union for Conservation of Nature Red List (*http://www.iucnredlist.org/*), and 13 species of the Caprinae subfamily are listed as threatened on the Red List. In order to maintain genetic diversity in these very small populations, animals must be moved between zoological collections, both domestically and internationally (Shackleton 1997). Movement of animals may also be a goal of conservation programs seeking to reintroduce captive-bred endangered species into the wild. Both types of movement carry the risk of inadvertent introduction of infectious diseases that may have serious consequences for conservation efforts. The management of animal genetic resources must include a consideration of the potential risk of importing undetected prion diseases with rare breeding stock.

Although each of the cases to date of ruminant TSEs possibly connected to BSE in zoo animals was diagnosed in a region known to be affected with BSE, we believe that even zoological ruminants in regions not categorized as BSE-affected or as posing undue risk of BSE could be at risk for BSE-related TSEs, due to possible origin in a BSE-affected region or feeding with BSE-contaminated protein. Even in countries that have enforced a ban on the feeding of ruminant protein to domestic ruminants for an identifiable period of time, it can be difficult in some cases to determine when and if a country ceased feeding ruminant protein to zoo ruminants.

Because of the potential variety of practices in the feeding of zoo ruminants, as well as the potential that certain zoo ruminants may have originated in BSE-affected countries, we believe it is necessary to consider on a case-by-case basis the potential spongiform encephalopathy risk of zoological ruminants. As noted above, a ruminant may not be imported into the United States unless the importer has first applied for and obtained a permit from APHIS for such importation. In the case of zoological ruminants, the Administrator will consider the disease risk of each animal and the ability of the receiving zoo to manage the risks before deciding whether to issue an import permit.

Paragraph (a)(3) of § 93.404 currently provides that an application for a permit to import ruminants may be denied due to, among other reasons, the lack of satisfactory information necessary to determine that the importation will not be likely to transmit any communicable disease to livestock or poultry of the United States.

Even with zoological ruminants that would otherwise be denied importation into the United States, however, we believe that, in most cases, adequate mitigation measures with respect to potential TSE risks can be taken to allow the animal to be safely imported into the United States. Although the precise measures APHIS considers necessary could vary on a case-by-case basis, such measures could include the following:

- That the animal be held at approved permanent post-entry quarantine facilities;
- That any movement of the animal out of or among such facilities occur only in accordance with a compliance agreement between APHIS and the owners of approved facilities; and
- That, upon the death of the animal, the APHIS Service Center Director be notified, and the carcass be tested for TSEs and be completely destroyed in a manner acceptable to the Administrator.

Any conditions for the importation of a zoological ruminant would be spelled out in the import permit for that animal. Any such conditions could also be applied to any progeny of the animal, as well to as any ruminants housed with either the animal or its progeny. In the event that the conditions of importation of a zoological ruminant were applied to its progeny or contact animals, the Administrator could require that a zoo enter into a cooperative, compliance, or other agreement that sets out specific requirements for releasing the progeny or contact animals based on postmortem testing of the imported animal with negative results.

Ruminants From Regions Where BSE Exists

As noted above, the current regulations contain broad prohibitions and restrictions regarding the importation of non-bovine ruminants other than sheep and goats from regions listed in § 94.24(a). The prohibitions apply to zoological ruminants as well as to domesticated ruminants. However, the regionally based prohibitions do not address individual situations where a ruminant that would otherwise be denied entry from a region listed in § 94.24(a) could be safely entered into the United States, provided certain risk mitigation measures are taken.

Section 93.401 of the regulations contains general prohibitions on the importation of ruminants. We would amend paragraph (a) of this section by revising the second sentence to remove the reference to § 94.24(a). That section contains a list of regions in which BSE is known to exist, but is no longer needed since we have changed the way we recognize regions for BSE risk. We are proposing to amend the second sentence to read "Notwithstanding any other provision of this subpart, the importation of any ruminant that is not a bovine, camelid, cervid, sheep, or goat is prohibited." This change would remove BSE restrictions on the importation of many non-bovine ruminants, but would continue to protect against the introduction of TSEs into the United States.

Currently § 93.401(a) also provides that the Administrator may, upon request in specific cases, allow ruminants or products to be brought into or through the United States under such conditions as he or she may prescribe, when he or she determines in the specific case that such action will not endanger the livestock or poultry of the United States. Providing for the importation of specific animals in individual cases has great value for conservation efforts. In order to maintain genetic diversity in species with very small populations, animals must be moved between zoological collections, both domestically and internationally.

In the preceding section of this document, we discussed the type of mitigation measures that could be used to adequately mitigate TSE risk from zoo ruminants from regions other than those listed in § 94.24(a). We believe that the same types of mitigation measures can be employed to safely import zoological ruminants from regions listed in § 94.24(a).

In this document, therefore, we are proposing to add a new paragraph (a)(5) to the import permit provisions in § 93.404 to address such situations. The new paragraph would provide that, in specific cases, a permit may be issued for ruminants that would otherwise be prohibited importation due to TSEs pursuant to part 93 subpart D if the Administrator determines that the disease risk posed by the animals can be adequately mitigated through pre-entry or post-entry mitigation measures, or through combinations of such measures. Such measures would be specified in the permit. If it is determined prior to or after importation that any pre-entry or post-entry requirements were not met, or that the ruminants are affected with or have been exposed to TSEs, the ruminants, their progeny, and any other ruminants that have been housed with or exposed to the ruminants will be disposed of or otherwise handled as directed by the Administrator.

We would also provide that importers seeking a permit pursuant to the paragraph must send their request by postal mail to the Administrator, c/o National Import Export Services, VS, APHIS, 4700 River Road, Unit 39, Riverdale, MD 20737–1231, or make their request online via APHIS' electronic permitting system, by email or by fax. Information about using these methods to request a permit can be found on the APHIS Web site at *http://www.aphis.usda.gov/animal_health/permits/.*

Sheep and Goat Products

The regulations in 9 CFR parts 94, 95, and 96 prohibit or restrict the importation of certain animals and animal products, byproducts, and foreign animal casings into the United States to prevent the introduction of communicable diseases of livestock and poultry. We are also proposing to amend part 94, part 95, and part 96 of the regulations to remove the current BSE provisions regarding sheep and goats. In the following sections, we identify those CFR sections and paragraphs from which regulatory text relating to BSE and sheep and goats would be removed.

Transit Shipment of Articles

The regulations in §§ 94.15, 94.27, and 95.15 currently provide requirements for the transit shipment of animal products and materials. Section 94.15 provides general requirements for the movement and handling of animal products and materials through the United States for immediate export. Section 94.27 provides requirements for transit shipment of meat, meat products, and other edible products derived from bovines, ovines, or caprines through air or ocean ports or by overland transport. Section 95.15 provides requirements for transit shipment of animal byproducts through air or ocean ports or by overland transport.

We are proposing to revise § 94.15 to consolidate the requirements for transit shipment of all these products into one section and to eliminate some BSE-related restrictions that are no longer warranted. The new requirements would be similar to those that already exist in § 94.15. Paragraphs (b) and (c) of § 94.15 would be redesignated as (c) and (d), respectively. The specific requirements for meat, meat products, and other edible products derived from bovines, ovines, or caprines in § 94.27 would be removed because they are no longer warranted. Section 95.15 would also be removed.

Restrictions on the Importation of Meat and Edible Products Due to BSE

The regulations in § 94.24 restrict the importation of meat and edible products, including gelatin, from ovines and caprines due to BSE, those in § 94.25 restrict the importation from Canada of meat and edible products from ovines and caprines other than gelatin, and those in § 94.26 apply to gelatin derived from horses or swine or from ovines or caprines that have not been in a region restricted because of BSE. While there is no BSE risk associated with gelatin or meat and other edible products derived from sheep and goats, these restrictions also function as protection against the introduction of other TSEs, such as scrapie.

We are proposing to remove §§ 94.24 and 94.25. This will remove both the prohibition on the importation of meat and other edible products ovines and caprines from regions in which BSE is known to exist, and the requirement that meat and edible products from sheep and goats from Canada, other than gelatin, be derived only from animals less than 12 months of age. These restrictions were related to concerns about BSE risk and are no longer warranted since there is no scientific evidence that BSE is circulating in sheep or goats.

We are proposing to amend § 94.26 by removing the references to ovines and caprines that have not been in a region restricted because of BSE from the section heading and the regulatory text. In place of those references we would add a reference to non-bovine ruminants. Gelatin derived from non-bovine ruminants, like gelatin derived from horses and swine, does not present a risk for BSE since there is no scientific evidence that BSE is circulating in sheep or goats.

Restrictions on Importation of Byproducts Derived From Ruminants Due to BSE

Part 95 of the regulations prohibits or restricts the importation of products other than meat and other edible products to prevent the introduction of certain animal diseases. We are proposing to amend § 95.1 by removing the definitions for *positive for a transmissible spongiform encephalopathy* and *suspect for a transmissible spongiform encephalopathy* because those terms no longer appear in the regulations.

Section 95.4 contains restrictions on the importation of processed animal protein, offal, tankage, fat, glands, certain tallow other than tallow derivatives, and serum due to bovine spongiform encephalopathy. We are proposing to amend this section first by revising the section heading to remove the exception for certain tallow derivatives. We would also revise paragraph (b)(1) to remove the exception for tallow derivatives from that paragraph. We are making these changes in order to be consistent with our requirements for bovine-derived tallow derivatives, which are subject to restrictions set out in § 95.9.

Paragraph (a) contains a list of regions in which BSE is known to exist. We would revise the paragraph to remove this list, which is no longer needed since we have changed the way we recognize regions for BSE risk.

In paragraph (c), we would remove the reference to paragraph (a)(4) from paragraph (c)(1)(iv), and remove paragraphs (c)(2) and (c)(3). These revisions would remove BSE-related restrictions from these products when derived from sheep and goats. We would also amend paragraphs (c)(1)(ii) and (iv) to add the words "and the material is not ineligible for importation under the conditions of § 95.5" after the words "cervids and camelids" and "ovines and caprines," respectively. These would not be new requirements; the regulations in § 95.5 have always applied to products derived from all ruminant species, due to concerns about commingling or cross-contamination. However, this change would clarify that the restrictions in that section continue to apply to products derived from cervids, camelids, ovines, and caprines. Paragraphs (c)(4) through (c)(8) would be redesignated as paragraphs (c)(2) through (c)(6), respectively.

In newly redesignated paragraph (c)(3), we would amend the first sentence to remove the requirement that facilities that process or handle any material derived from mammals be inspected at least annually for compliance with the provisions of this section, either by a representative of the government agency responsible for animal health in the region, or by APHIS. Instead, we would require only facilities that process or handle processed animal protein be inspected at least annually. The rendering process used to make processed animal protein creates a material that cannot be differentiated by species without a polymerase chain reaction test, and much rendering is performed involving multiple species. As a result, there is a risk of cross-contamination with processed animal protein that does not exist with the other products. For this reason we would continue to require inspections for facilities that process or handle processed animal proteins.

Paragraphs (d) and (e) contain restrictions on serum, serum albumin, serocolostrum, amniotic liquids or extracts, and placental liquids derived from ovines and caprines due to BSE. We are proposing to remove both of these paragraphs because BSE-related restrictions on these products are no longer warranted. These products present a risk of introducing other diseases, however, and would continue to be prohibited importation into the United States, except for scientific, educational, or research purposes if the Administrator determines that the importation can be made under conditions that will prevent the introduction of animal diseases into the United States.

Paragraph (g) contains restrictions on offal derived from ovines and caprines. These restrictions are no longer warranted and paragraph (g) would be removed.

Section 95.40 contains additional certification requirements for certain materials derived from sheep and goats, including processed animal protein, tankage, offal, glands and unprocessed fat tissue, and derivatives of those products. These additional certification requirements were established due to BSE concerns and are no longer warranted; therefore, we are proposing to remove § 95.40.

Restrictions on the Importation of Foreign Animal Casings

Part 96 of the current regulations includes provisions regarding the importation of animal casings into the United States. The regulations in § 96.2 prohibit the importation of ruminant casings into the United States to prevent the introduction of BSE. We would remove the restrictions on casings derived from sheep and goats by removing paragraph (b)(1), which pertains to casings derived from sheep slaughtered in Canada. We would also redesignate paragraph (b)(2) as (b)(1).

Sheep and Goat Germ Plasm

The regulations in 9 CFR part 98 govern the importation into the United States of germ plasm (embryos and semen), including germ plasm from sheep and goats. Subpart A sets forth requirements for ruminant and swine embryos from regions free of rinderpest and foot-and-mouth disease (FMD), and for embryos of horses and asses. Subpart B sets forth requirements for ruminant and swine embryos from regions where rinderpest and FMD exist. Subpart C sets forth the requirements for the importation of animal semen from species regulated by APHIS.

Currently, the regulations in § 98.10a provide that embryos from sheep in regions other than Australia, Canada, and New Zealand may be imported only if the embryos are transferred to females in a flock that participates in the Voluntary Scrapie Flock Certification Program (9 CFR part 54, subpart B) and qualifies as a "Certified" flock, or:

- The embryos are transferred to females in a flock that participates in the Voluntary Scrapie Flock Certification Program and the flock owner has agreed, in writing, to maintain the flock, and all first generation (F1) progeny resulting from the embryos in accordance with all requirements of the Voluntary Scrapie Flock Certification Program; and
- The importer provides the Voluntary Scrapie Flock Certification Program identification number as part of the application for an import permit; and
- The embryos are the progeny of a dam and sire that are part of flocks in the region of origin that participate in a program that has been determined by the Administrator to be equivalent to the Voluntary Scrapie Flock Certification Program, and those flocks have been determined to be at a level equivalent to "Certified."

In addition, the flock to which the embryos are transferred must also be monitored for scrapie until the flock, and all first generation progeny resulting from the embryos qualifies as a "Certified" flock.

Because sheep and goat embryos and oocytes present similar disease risks, those risks can be addressed by the same mitigations, and also because we anticipate that use of oocytes will increase as reproductive technology continues to improve, we are proposing to add provisions for goat embryos and both sheep and goat oocytes to the regulations in § 98.10a. Specifically, we would revise the section heading to read "Sheep and goat embryos and oocytes." We would also add a definition of *oocyte* to read "the first and second maturation stages of a female reproductive cell prior to fertilization" to § 98.2 of the regulations. This definition is consistent with international standards.

We are proposing to allow the importation of in vivo-derived sheep and goat embryos and oocytes with the requirement that, if these embryos and oocytes are collected from donors in, or originating from, regions not free of classical scrapie, the health certificate required under § 98.5 must include additional declarations stating that the embryos or oocytes were collected, processed, and stored in accordance with the requirements in § 98.3, and, for in vivo-derived sheep embryos only, that the embryo is of either of the scrapie-resistant genotypes, AARR or AAQR, based on official testing of the parents or the embryo. The testing may be performed at the NVSL or at another laboratory approved by the Administrator.

The certificate that would accompany sheep embryos that are not of either of these genotypes, sheep embryos that are in vitro-derived or processed, and all goat embryos, would also have to include statements that in the region where the embryos originate:

- TSEs of sheep and goats are compulsorily notifiable;
- A classical scrapie awareness, surveillance, monitoring, and control system is in place;
- TSE-affected sheep and goats are killed and completely destroyed; and
- The feeding of meat-and-bone meal of ruminant origin has been banned and effectively enforced in the whole country.

The certificate would also have to state that the donor animals:

- Have been kept since birth in flocks in which no case of classical scrapie had been confirmed during their residency;
- Are permanently identified to enable traceback to their flock of birth or herd of origin, and the identification is recorded on the certificate accompanying the embryos and linked to the embryo container identification;
- Showed no clinical sign of classical scrapie at the time of embryo or oocyte collection; and
- Have not tested positive for, and are not suspect for, a transmissible spongiform encephalopathy.

We are adding these certification requirements for embryo genotypes that are not scrapie resistant, but which originate from regions not considered by APHIS as free of classical scrapie, to ensure that mitigations are in place to detect classical scrapie if it is present in sheep or goat populations.

We are also proposing to remove the existing requirement that sheep embryos from regions other than Australia, New Zealand, or Canada be transferred only to flocks in the Voluntary Scrapie Flock Certification program (SFCP).

Enrollment in this program requires an annual inspection with inventory reconciliation and submission of tissues from certain animals for scrapie testing. We are making this change because the scientific literature demonstrates that embryos are low risk for scrapie transmission. APHIS has determined that requiring all F1 offspring to be maintained in an SFCP flock is unnecessary as well as overly burdensome on importers.

Instead, we would require that sheep and goat embryos or oocytes from regions that are not free of classical scrapie be imported only for transfer to females in flocks listed in the National Scrapie Database, or to an APHIS-approved storage facility where they may be kept and later transferred to recipient females in a flock that is listed in the National Scrapie Database. We would also allow imported embryos or oocytes that are not otherwise restricted by the conditions of an import permit to be transferred from a listed flock to any other listed flock with written notification to the responsible APHIS Veterinary Services (VS) National Import Export Services (NIES) Service Center. To be listed in the National Scrapie Database, a flock owner must contact the local VS Surveillance, Preparedness and Response (SPRS) field office or a cooperating State Veterinarian's office and request to be listed; and provide the location of the flock and the owner's contact information. The VS SPRS field office or State Veterinarian's Office will enter the information in the database, and will issue the flock identification and the premises identification number that are required to be submitted on the permit application. To find the nearest VS NIES Service Center or SPRS field office, contact the State or Territory Point of Contact (POC). A list of POCs can be found on the APHIS Web site at *https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/contact-us.*

Finally, we would require the importer, owner of a recipient flock, or the owner of an APHIS-approved embryo or oocyte storage facility to maintain records of the disposition (including destruction) of imported or stored embryos or oocytes for 5 years after the embryo or oocyte is transferred or destroyed. These records would have to be made available during normal business hours to APHIS representatives on request for review and copying. This recordkeeping requirement is consistent with the recordkeeping requirements for imported semen that already exist, and would allow us to conduct traceback investigations in the event of a disease introduction.

The regulations in § 98.3(h) currently require that ruminant and swine embryos have an intact zona pellucida, which effectively prohibits the importation of in vitro-derived and processed embryos except as provided under § 98.10. We intend to continue to allow such importations on a case-by-case basis, if the Administrator determines that any disease risk posed by the embryos can be adequately mitigated through pre-entry or post-entry mitigation measures, or through combinations of such measures.

The regulations in 98.13 provide requirements for import permits for ruminant and swine embryos from regions where rinderpest or FMD exist. We are proposing to add a new paragraph (c) to this section specifying that applications for a permit to import sheep and goat embryos and oocytes must include the flock identification number of the receiving flock and the premises or location identification number assigned in the APHIS National Scrapie Database; or, in the case of embryos or oocytes moving to a storage facility, the premises or location identification number must be included. We are proposing this change to ensure that the permit requirements for sheep and goat embryos and oocytes from regions where rinderpest or FMD exist are consistent with the requirements for sheep and goat embryos and oocytes from regions that are free of those diseases.

The regulations in § 98.15 set forth the requirements for ruminant and swine embryos from regions where foot-and-mouth disease or rinderpest exist. Currently, § 98.15(a)(1) and (2) require that, for ruminants, no case of BSE (among other diseases) occurred (1) during the year before collection in the embryo collection unit or in any herd in which the donor dam was present, or (2) in or within 5 kilometers of the embryo collection unit, or in any herd in which the donor dam was present. We are proposing to remove these requirements because we believe the proposed requirements for sheep and goat embryos in § 98.10a will provide adequate protection against a TSE introduction via embryo or oocyte transfer.

Section 98.15(a)(7)(i)(A) currently requires that, for ruminants, not less than 30 days, nor more than 120 days after embryo collection, the donor dam must be examined and found free of BSE (among other diseases). We are proposing to amend this requirement by removing the requirement that sheep and goats be found free of clinical signs of BSE because sheep and goat embryos do not present a risk for transmitting BSE since BSE is not circulating in the sheep and goat populations.

Currently § 98.15(a)(8)(i)(A) requires that, for ruminants, between the time of embryo collection and all required examinations and tests are completed, no animals in the embryo collection unit with the donor dam, or in the donor dam's herd of origin, exhibited clinical evidence of BSE (among other diseases). We are proposing to remove BSE from the list of diseases in this paragraph because we believe the proposed requirements for sheep and goat embryos in § 98.10a will provide adequate protection against a TSE introduction through embryo or oocyte transfer.

Currently, the regulations in § 98.35(e) require that, for sheep and goat semen from any part of the world to be imported into the United States:

- The donor animals must be permanently identified to enable traceback to their establishment of origin;
- They have been kept since birth in establishments in which no case of scrapie has been confirmed during their residency;
- They neither showed clinical signs of scrapie at the time of semen collection nor developed scrapie between the time of semen collection and the export of semen to the United States; and
- The dam of the semen donor is not, or was not, affected with scrapie.

The regulations also require that in the region where the semen originates, scrapie is a compulsorily notifiable disease, an effective surveillance and monitoring program for scrapie is in place, affected sheep and goats are slaughtered and completely destroyed, and the feeding of meat and bone meal or greaves derived from ruminants has been banned and the ban effectively enforced for the whole region.

At the time the regulations were established, they were consistent with the then current scientific understanding of scrapie and existing international standards. However, advances in scientific understanding of the disease now allow us to relieve some restrictions on the importation of sheep and goat semen. Epidemiological evidence from natural cases in the field suggests that classical scrapie is unlikely to be transmitted via semen (Wrathall 1997). In addition, studies to date have failed to detect PrPSc in components of semen (Gatti, Meyer et al. 2002).

As part of a study to investigate transmission of classical scrapie through embryo transfer, Wang, et al., used a classical scrapie-positive ram to mate with two donor ewes, one scrapie positive, the other negative (Wang, Foote et al. 2001). None of the lambs resulting from embryos of either ewe developed classical scrapie, nor did the uninfected ewe that was bred to the infected ram. The study did not provide information about the scrapie strain or the genotypes of the rams, donor ewes, and recipient ewes.

A more recent study evaluated the infectivity of semen from infected rams by injecting it via intracerebral inoculation into classical scrapie-susceptible transgenic mice overexpressing the VRQ allele. Semen from three classical scrapie-positive VRQ homozygous sheep was injected into a total of 40 transgenic mice, with none subsequently developing classical scrapie. One of the infected sheep was exhibiting clinical signs of classical scrapie and the other two were asymptomatic at the time of collection. In comparison, the injection of brain homogenate from 4 scrapie-infected sheep intracerebrally into 23 transgenic mice resulted in infection of 100 percent of the mice (Sarradin, Melo et al. 2008).

Recently, 8 ewes in a historically scrapie-negative sentinel flock of 24 sheep were discovered to be scrapie-positive 4 months after having been bred to scrapie-positive rams from an adjacent highly infected flock. The flock had also been bred in previous years by other rams from the infected flock and had fence line contact with rams from the infected flock. The ewes had been bred to these rams in order to increase the scrapie-susceptibility of the sentinel flock to the 'Caine' strain of scrapie (*i.e.,* to increase the proportion of sheep with at least one valine insertion at codon 136). This strain has a relatively short incubation period, particularly in sheep that are homozygous for valine at codon 136. The discovery of the infected ewes led to an investigation by Rubenstein et al. (2012) to determine whether it was possible that scrapie could have been transmitted to the ewes through exposure to the semen of infected rams (Rubenstein, Bulgin et al. 2012).

Using newly developed detection techniques such as serial protein misfolding cyclic amplification, combined with an optical fiber immunoassay, the investigators detected prion disease-associated-seeding activity, which is assumed to imply the presence of PrPSc in semen samples from the rams in the affected flock described above. In addition, intracerebral inoculation of a newly-generated sheep scrapie-susceptible transgenic mouse line with semen from both infected and uninfected rams from the flock resulted in the detection of PrPSc in all of the mice inoculated with semen from scrapie-positive rams, but in none of the mice inoculated with semen from scrapie-negative rams.

These experiments suggest that semen from scrapie-infected rams could harbor infectious PrPSc; however, additional studies are necessary to determine whether the level of infectivity in semen is sufficient to transmit scrapie laterally to ewes or to embryos resulting from the use of scrapie-infected semen donors.

To date, there has been no direct evidence to support the transmission of TSE infectivity through semen of sheep and goats to other sheep or goats; however, the studies conducted have been somewhat limited.

Based on the findings of these studies, we have determined that the previous restrictions in our regulations are no longer consistent with APHIS' assessment of the scrapie transmission risks associated with sheep or goat semen, or with international standards. We are therefore proposing to amend § 98.35 to remove paragraph (e)(1)(ii) to eliminate the requirement that donor animals have been kept since birth in establishments in which no case of scrapie has been confirmed during their residency, and redesignate paragraphs (e)(1)(iii) and (e)(1)(iv) as (e)(1)(ii) and (e)(1)(iii), respectively. We would also amend newly redesignated paragraph (e)(1)(iii) to require that the donor animals were not, and are not, restricted in the country of origin or destroyed due to exposure to a TSE, and will add a new paragraph (e)(1)(iv) to allow APHIS to establish testing requirements for semen and/or semen donors.

We are also proposing to revise paragraph (e)(3) to include semen from all countries, and to allow semen to be imported to an APHIS-approved semen storage facility prior to being transferred to females in a flock listed in the National Scrapie Database. This change will provide an additional option for producers and importers. Further, we are proposing to add new paragraphs (e)(4) and (5) to describe recordkeeping requirements for APHIS-approved semen storage facilities, including a requirement that progeny of imported semen be officially identified and records maintained of their disposition in order to allow these animals to be traced if a need arises.

Executive Orders 12866 and 13563 and Regulatory Flexibility Act

This proposed rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

We have prepared an economic analysis for this rule. The economic analysis provides a cost-benefit analysis, as required by Executive Orders 12866 and 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The economic analysis also provides an initial regulatory flexibility analysis that examines the potential economic effects of this rule on small entities, as required by the Regulatory Flexibility Act. The economic analysis is summarized below. Copies of the full analysis are available by contacting the person listed under **FOR FURTHER INFORMATION CONTACT** or on the *Regulations.gov* Web site (see **ADDRESSES** above for instructions for accessing *Regulations.gov*).

Based on the information we have, there is no reason to conclude that adoption of this proposed rule would result in any significant economic effect on a substantial number of small entities. However, we do not currently have all of the data necessary for a comprehensive analysis of the effects of this proposed rule on small entities. Therefore, we are inviting comments on potential effects. In particular, we are interested in determining the number and kind of small entities that may incur benefits or costs from the implementation of this proposed rule.

This analysis examines impacts on U.S. entities of a rule that would remove BSE restrictions on the importation of live sheep and goats and most of their products. The rule also would align our scrapie regulations generally with OIE guidelines and establish a notice-based approach for recognizing regions as free of scrapie. We are also proposing to amend the BSE and scrapie regulations as they apply to other ruminant species that are not bovines, cervids, camelids, sheep or goats. The rule is part of a continuing program to allow the importation of agricultural products that APHIS has determined are without significant risk of introducing exotic animal diseases into the United States.

This proposed rule's impact would stem from its effect on U.S. imports of the affected commodities. Consumer welfare gains from the potential increase in imports are expected to exceed producer welfare losses. While the rule could affect U.S. imports of a wide range of commodities, we focus our attention on the production and trade of live sheep and goats and their meat. This rule may affect imports of other ruminants such as animals received by zoos, but APHIS does not have information that would allow us to evaluate such impacts. Estimated net benefits of the rule are demonstrated in terms of increased imports of lamb, mutton, and goat meat.

U.S. imports of sheep and goat meat come almost entirely from Australia and New Zealand, with chilled or frozen lamb the main product. To evaluate potential effects of the rule, we estimate impacts for U.S. production, consumption, and prices of sheep and goat meat imports using a net trade welfare model. The imports are expected to be small in comparison to an already large import base. We model three levels of additional sheep and goat meat imports into the United States: 983 MT, 1,966 MT, and 3,932 MT. These quantities are equal to approximately 5, 10, and 20 percent of the sum of (i) average EU sheep and goat meat exports to non-EU markets, 2010–2014, excluding Australia and New Zealand and (ii) average sheep and goat meat exports to EU countries by 21 other countries, 2010–2014. The largest assumed quantity is equivalent to less than 3 percent of average annual U.S. sheep and goat meat consumption during this same period.

The medium level of assumed additional imports, 1,966 MT, would cause a decrease in wholesale prices of a little more than 1 percent and a fall in domestic production of 615 MT. Consumption would increase by 1,351255 MT. Producer welfare would decline by about $6.3 million and consumer welfare would increase by about $14.4 million, yielding an annual net welfare benefit of about $8.1 million. Similarly, the other two assumed import levels yield positive net benefits. To the extent that sheep and goat meat imported as a result of this rule may displace imports from existing sources, the price and welfare effects would be smaller than indicated; we note that over one half of the current U.S. market is imported.

The majority of establishments that may be affected by the proposed rule are small, and the economic impacts are likely to be small as well. If an additional 1,966 MT of sheep and goat meat were to be imported by the United States because of this rule, the annual decrease in producer welfare per small entity would be about $48, or the equivalent of about 1 percent of average annual sales by small entities. We welcome public comment that would allow us to better understand likely economic effects of the rule.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this proposed rule will be preempted; (2) no retroactive effect will be given to this proposed rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this proposed rule.

Executive Order 13175

This proposed rule has been reviewed in accordance with the requirements of Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments." Executive Order 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

The Animal and Plant Health Inspection Service has assessed the impact of this rule on Indian tribes and determined that this rule does not, to our knowledge, have tribal implications that require tribal consultation under E.O. 13175. If a Tribe requests consultation, the Animal and Plant Health Inspection Service will work with the Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions and modifications identified herein are not expressly mandated by Congress.

National Environmental Policy Act

To provide the public with documentation of APHIS' review and analysis of any potential environmental impacts associated with changes to the import regulations pertaining to sheep, goats, and certain other non-bovine ruminants, and products derived from sheep and goats, we have prepared an environmental assessment. The environmental assessment was prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

The environmental assessment may be viewed on the *Regulations.gov* Web site or in our reading room. (A link to *Regulations.gov* and information on the location and hours of the reading room are provided under the heading **ADDRESSES** at the beginning of this proposed rule.) In addition, copies may be obtained by calling or writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), some of the reporting and recordkeeping requirements included in this proposed rule have been approved under Office of Management and Budget (OMB) control numbers 0579–0040 and 0579–0101. The new reporting and recordkeeping requirements included in this proposed rule have been submitted as a new information collection for approval to OMB. Please send comments on the information collection request (ICR) to OMB's Office of Information and Regulatory Affairs via email to *oira_submissions@omb.eop.gov,* Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. APHIS–2009–0095. Please send a copy of your comments to USDA using one of the methods described under **ADDRESSES** at the beginning of this document, preferably the use of the Federal eRulemaking Portal.

APHIS uses a variety of information collection procedures and forms to gather data in its effort to prevent the introduction or spread of disease. Information collected via these procedures and forms includes, but is not limited to, the names of the exporter and importer of the animal commodities; the origins of the animals or animal products to be imported; the health status of the animals or the processing methods used to produce animal products to be imported; the destination of delivery in the United States; and whether the animals or animal products were temporarily offloaded in another country during transit to the United States.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's

functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.*, permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 0.531 hours per response.

Respondents: State representatives; Foreign governments/veterinary officials; accredited veterinarians; importers and owners of sheep, goats, and certain other small ruminants; slaughter plant personnel; and feedlot personnel.

Estimated annual number of respondents: 7,423.

Estimated annual number of responses per respondent: 8.73.

Estimated annual number of responses: 64,771.

Estimated total annual burden on respondents: 34,408 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this new information collection are located at *http://www.regulations.gov/#!docketDetail;D=APHIS-2009-0095* and can be obtained from Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2727.

USDA will respond to any ICR-related comments in the final rule. All comments will also become a matter of public record.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this proposed rule, please contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2727.

List of Subjects

9 CFR Part 93

Animal diseases, Imports, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements.

9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

9 CFR Part 95

Animal feeds, Hay, Imports, Livestock, Reporting and recordkeeping requirements, Straw, Transportation.

9 CFR Part 96

Imports, Livestock, Reporting and recordkeeping requirements.

9 CFR Part 98

Animal diseases, Imports.

Accordingly, we are proposing to amend 9 CFR parts 93, 94, 95, 96, and 98 as follows:

PART 93—IMPORTATION OF CERTAIN ANIMALS, BIRDS, FISH, AND POULTRY, AND CERTAIN ANIMAL, BIRD, AND POULTRY PRODUCTS; REQUIREMENTS FOR MEANS OF CONVEYANCE AND SHIPPING CONTAINERS

■ 1. The authority citation for part 93 continues to read as follows:

Authority: 7 U.S.C. 1622 and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

■ 2. Section 93.400 is amended as follows:

■ a. By adding, in alphabetical order, definitions for "Certified status", "Classical scrapie", and "Country mark";

■ b. By revising the definitions for "Designated feedlot" and "Flock";

■ c. By adding, in alphabetical order, definitions for "Flock of birth", "Flock of residence", "Goat", "Killed and completely destroyed", "Non-classical scrapie", and "Sheep";

■ d. By removing the definition of "Suspect for a transmissible spongiform encephalopathy"; and

■ e. By adding, in alphabetical order, definitions for "Transmissible spongiform encephalopathies (TSEs)", and "TSE-affected sheep or goat".

The additions and revisions read as follows:

§ 93.400 Definitions.

* * * * *

Certified status. A flock that has met requirements equivalent to the Export Certified status of the U.S. Scrapie Flock Certification Program while participating in a program under the supervision of the national veterinary authority of the region of origin, as determined by an evaluation conducted by APHIS of the program.

* * * * *

Classical scrapie. Any form of scrapie that the Administrator has determined poses a significant risk of natural transmission.

* * * * *

Country mark. A permanent mark approved by the Administrator for identifying a sheep or goat to its country of origin.

* * * * *

Designated feedlot. A feedlot that has been designated by the Administrator as one that is eligible to receive sheep and goats from regions that are not free of classical scrapie, and whose owner or legally responsible representative has signed an agreement as specified in § 93.435(c)(11) and is in full compliance with all the provisions of the agreement.

* * * * *

Flock. Any group of one or more sheep or goats maintained on a single premises, or on more than one premises under the same ownership and between which unrestricted movement is allowed; or two or more groups of sheep or goats under common ownership or supervision on two or more premises that are geographically separated, but among which there is an interchange or movement of animals.

Flock of birth. The flock into which a sheep or goat is born.

Flock of residence. The flock:

(1) Within which an individual sheep or goat was born, raised, and resided until exported to the United States; or

(2) In which the sheep or goat resided for breeding purposes for 60 days or more until exported to the United States; or

(3) In which sheep and goats for export were assembled for export to the United States and maintained for at least 60 days immediately prior to export, without any addition of animals or contact with animals other than through birth, on a single premises, or on more than one premises under the same ownership and between which unrestricted movement occurred.

Goat. Any animal of the genus *Capra.*

* * * * *

Killed and completely destroyed. Killed, or maintained under quarantine in a manner that will prevent disease spread until the animal is no longer living; and the remains have been disposed of in a way that prevents disease spread.

* * * * *

Non-classical scrapie. Any form of scrapie that the Administrator has determined poses a low risk of natural transmission.

* * * * *

Sheep. Any animal of the genus *Ovis.*

* * * * *

Transmissible spongiform encephalopathies (TSEs). A family of progressive and generally fatal neurodegenerative disorders thought to be caused by abnormal proteins, called prions, that typically produce characteristic microscopic changes, including, but not limited to, non-inflammatory neuronal loss, giving a spongiform appearance to tissues in the brains and central nervous systems of affected animals.

TSE-affected sheep or goat. A sheep or goat suspected or known by the national veterinary authority of the region of origin to be infected with a transmissible spongiform encephalopathy prior to the disposal of the animal.

* * * * *

■ 3. In § 93.401, paragraph (a) is revised to read as follows:

§ 93.401 General prohibitions; exceptions.

(a) No ruminant or product subject to the provisions of this part shall be brought into the United States except in accordance with the regulations in this part and part 94 of this subchapter;[3] nor shall any such ruminant or product be handled or moved after physical entry into the United States before final release from quarantine or any other form of governmental detention except in compliance with such regulations. Notwithstanding any other provision of this subpart, the importation of any ruminant that is not a bovine, camelid, cervid, sheep, or goat is prohibited. *Provided, however,* the Administrator may upon request in specific cases permit ruminants or products of such to be brought into or through the United States under such conditions as he or she may prescribe, when he or she determines in the specific case that such action will not endanger the livestock of the United States.

* * * * *

■ 4. Section 93.404 is amended as follows:

■ a. Paragraphs (a)(2), (a)(3), and (a)(4) are redesignated as paragraphs (a)(3), (a)(4), and (a)(7), respectively;

■ b. By adding new paragraph (a)(2) and paragraphs (a)(5), and (6);

■ c. In newly redesignated paragraph (a)(7)(v), the reference to "paragraph (a)(4)(iv)" is removed and a reference to "paragraph (a)(7)(iv)" is added in its place; and

■ d. In newly redesignated paragraph (a)(7)(vi), the references to "paragraph (a)(4)(iv)(A)" and "paragraph (a)(4)(iv)(B)" are removed and references to "paragraph (a)(7)(iv)(A)" and "paragraph (a)(7)(iv)(B)", respectively, are added in their place.

The additions read as follows:

§ 93.404 Import permits for ruminants and for ruminant test specimens for diagnostic purposes; and reservation fees for space at quarantine facilities maintained by APHIS.

(a) * * *

(2) In addition to the requirements in paragraph (a)(1) of this section, the importer must submit the following information along with the application for an import permit:

(i) For sheep or goats imported for immediate slaughter, or for restricted feeding for slaughter:

(A) The slaughter establishment to which the animals will be imported; or

(B) The designated feedlot in which sheep and goats imported for restricted feeding for slaughter will be maintained until moved to slaughter.

(ii) For sheep and goats imported for purposes other than immediate slaughter or restricted feeding for slaughter:

(A) The flock identification number, if imported to a flock, and the premises or location identification number, of the flock or other premises to which the animals are imported as listed in the Scrapie National Database.

(B) For sheep and goats from regions not free from classical scrapie, the importer must provide documentation that the animal has reached and maintained certified status in a Scrapie Flock Certification program that has been determined by the Administrator to provide equivalent risk reduction as the Export Category of the U.S. Scrapie Flock Certification Program. The documentation must specify the address, or other means of identification, of the premises and flock of birth, and any other flock(s) in which the animals have resided.

* * * * *

(5) In specific cases, a permit may be issued for ruminants that would otherwise be prohibited importation due to TSEs pursuant to this subpart, if the Administrator determines that the disease risk posed by the animals can be adequately mitigated through pre-entry or post-entry mitigation measures, or through combinations of such measures. These measures will be specified in the permit. If it is determined prior to or after importation that any pre-entry or post-entry requirements were not met, or that the ruminants are affected with or have been exposed to TSEs, the ruminants, their progeny, and any other ruminants that have been housed with or exposed to the ruminants will be disposed of or otherwise handled as directed by the Administrator. Importers seeking a permit pursuant to this paragraph must send their request to the Administrator, c/o National Import Export Services, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737–1231, or via the APHIS Web site at *http://www.aphis.usda.gov/import_export/animals/live_animals.shtml.*

(6) The Administrator may issue permits under paragraph (a)(5) of this section for male sheep that are determined to be AA at codon 136 and either RR, HR, KR or QR at codon 171 and for female sheep that are AA at codon 136 and RR at codon 171 by the National Veterinary Services Laboratories or another laboratory approved by the Administrator. Such sheep must meet all requirements for import other than the requirement that they originate in a flock or region that is free of classical scrapie. The permit will provide for post entry confirmation of the animal's scrapie susceptibility genotype and/or genetic testing for identity.

* * * * *

■ 5. Section 93.405 is amended as follows:

■ a. Paragraph (a)(4) is removed;

■ b. Paragraph (b) is revised;

■ c. Paragraph (c) is removed; and

■ d. Paragraph (d) is redesignated as paragraph (c) and revised.

The revisions read as follows:

§ 93.405 Health certificate for ruminants.

* * * * *

(b) *Sheep and goats.* (1) In addition to the statements required by paragraph (a) of this section, the certificate accompanying sheep or goats from any part of the world must also include the name and address of the importer; the number or quantity of sheep or goats to be imported; the purpose of the importation; the official individual sheep or goat identification applied to the animals; and, when required by § 93.435, the permanent country mark and other identification present on the animal, including registration number, if any; a description of each sheep or goat linked to the official identification number, including age, sex, breed, color, and markings, if any; the flock of residence; the address (including street, city, State, and ZIP Code) of the destination where the sheep or goats are to be physically located after importation, including the premises or location identification number assigned in the APHIS National Scrapie Database and when applicable the flock identification number; the name and address of the exporter; the port of embarkation in the region of export; the mode of transportation, route of travel and port of entry in the United States; and, for sheep or goats imported for purposes other than immediate slaughter or restricted feeding for slaughter, the certificate must specify the region of origin and, for regions not free of scrapie, the address or other identification of the premises and flock of birth, and any other flock in which the animals have resided.

---

[3] Importations of certain animals from various regions are absolutely prohibited under part 94 because of specified diseases.

(2) The certificate accompanying sheep or goats from any part of the world, except as provided in paragraph (b)(4) of this section for sheep or goats imported for immediate slaughter, and in paragraph (b)(5) of this section for sheep or goats for restricted feeding for slaughter, must also state:

(i) That the sheep or goats originated from a region recognized as free of classical scrapie by APHIS; or that the animals have reached and maintained certified status in a scrapie flock certification program approved by APHIS;

(ii) That the sheep or goats have not commingled with sheep or goats of a lower health status, or resided on the premises of a flock or herd of lower health status, after leaving the flock of residence and prior to arrival in the United States;

(iii) That any enclosure, container or conveyance in which the sheep or goats had been placed during the export process, and which had previously held sheep or goats, was cleaned and disinfected in accordance with § 54.7(e)(2) of this chapter prior to being used for the sheep or goats;

(iv) That none of the female sheep or goats is carrying an implanted embryo from a lower health status flock; or that any implanted embryo met the requirements for import into the United States when implanted and documentation as required in part 98 of this subchapter is attached;

(v) That the veterinarian issuing the certificate has inspected the sheep or goats, and their flock(s) of residence, within 30 days of consignment for import to the United States, and found the animals and the flock(s) of residence to be free of any evidence of infectious or contagious disease;

(vi) That as far as it is possible for the veterinarian who inspects the animals to determine, none of the sheep or goats in the flock(s) of residence has been exposed to any infectious or contagious disease during the 60 days immediately preceding shipment to the United States; and

(vii) The animals' movement is not restricted within the country of origin due to animal health reasons.

(3) The certificate accompanying sheep or goats from any part of the world, except as provided in paragraph (b)(4) of this section for sheep or goats imported for immediate slaughter, or in paragraph (b)(5) of this section for sheep or goats for restricted feeding for slaughter, must also include:

(i) The results of any testing required in the import permit; and

(ii) Any other information required in the import permit.

(4) For sheep or goats imported for immediate slaughter, in addition to the statements required under paragraph (a) of this section, the certificate must include statements that:

(i) The region is recognized as free of classical scrapie by APHIS; or

(ii) The region has not been recognized as free of classical scrapie by APHIS but the following criteria have been met:

(A) TSEs in sheep and goats are compulsorily notifiable;

(B) An effective classical scrapie awareness, surveillance, monitoring, and control system is in place;

(C) TSE-affected sheep and goats are killed and completely destroyed;

(D) The sheep and goats selected for export showed no clinical sign of scrapie on the day of shipment and are fit for travel;

(E) The sheep and goats have not tested positive for, and are not suspect for, a transmissible spongiform encephalopathy; and

(F) The animals' movement is not restricted within the country of origin due to animal health reasons.

(5) Sheep or goats for restricted feeding for slaughter. For sheep or goats imported for restricted feeding for slaughter, in addition to the statements required under paragraph (a) of this section, the certificate must include statements that:

(i) The region is recognized as free of classical scrapie by APHIS; or

(ii) The region has not been recognized as free of classical scrapie by APHIS but the following criteria have been met:

(A) TSEs in sheep and goats are compulsorily notifiable;

(B) An effective classical scrapie awareness, surveillance, monitoring and control system is in place;

(C) TSE-affected sheep and goats are killed and completely destroyed;

(D) The sheep or goats showed no clinical sign of scrapie or any other infectious disease on the day of shipment and are fit for travel;

(E) The sheep or goats have not tested positive for, and are not suspect for, a transmissible spongiform encephalopathy;

(F) The animals' movement is not restricted within the country of origin due to animal health concerns;

(G) Female sheep and goats are not known to be pregnant, are not visibly pregnant, and female animals have not been exposed:

(*1*) To a sexually intact male at over 5 months of age; or

(*2*) To a sexually intact male within 5 months of shipment;

(H) That the veterinarian issuing the certificate has inspected the sheep or goats for export, and their flock(s) of residence, within 30 days of consignment for shipment to the United States, and found the animals and the flock(s) of residence to be free of any evidence of infectious or contagious disease; and

(I) That as far as it is possible for the veterinarian who inspects the animals to determine, none of the sheep or goats has been exposed to any infectious or contagious disease during the 60 days immediately preceding shipment to the United States.

(c) If ruminants are unaccompanied by the certificate as required by paragraphs (a) and (b) of this section, or if such ruminants are found upon inspection at the port of entry to be affected with a communicable disease or to have been exposed thereto, they shall be refused entry and shall be handled or quarantined, or otherwise disposed of as the Administrator may direct.

* * * * *

§ 93.406 [Amended]

■ 6. Amend § 93.406(b) by removing the references "§§ 93.419 and 93.428(b)" and adding "§§ 93.428(b) and 93.435" in their place.

§ 93.419 [Removed and Reserved]

■ 7. Section 93.419 is removed and reserved.

■ 8. In § 93.420, paragraph (a) introductory text is amended by adding a sentence after the paragraph heading to read as follows:

§ 93.420 Ruminants from Canada for immediate slaughter other than sheep and goats.

(a) * * *. The requirements for the importation of sheep and goats from Canada for immediate slaughter are contained in § 93.435. * * *

* * * * *

■ 9. Section 93.424 is amended by revising paragraph (a) to read as follows:

§ 93.424 Import permits and applications for inspection of ruminants.

(a) For ruminants intended for importation from Mexico, the importer shall first apply for and obtain from APHIS an import permit as provided in § 93.404: *Provided, that:* An import permit is not required for sheep or goats imported for immediate slaughter if the animal is offered for entry at a land border port designated in § 93.403(c).

* * * * *

■ 10. Section 93.428 is amended by revising paragraph (a) to read as follows:

§ 93.428 Sheep and goats and wild ruminants from Mexico.

(a) Sheep and goats intended for import from Mexico must be imported in accordance with § 93.435, and shall be accompanied by a certificate issued in accordance with § 93.405 and stating, if such sheep and goats are shipped by rail or truck, that such animals were loaded into cleaned and disinfected cars or trucks for transportation direct to the port of entry. Notwithstanding such certificate, such sheep and goats shall be detained as provided in § 93.427(a) and shall be dipped at least once in a permitted scabies dip under supervision of an inspector.

* * * * *

■ 11. Section 93.435 is revised to read as follows:

§ 93.435 Sheep and goats.

(a) *General provisions.* (1) Sheep and goats imported from anywhere in the world shall be accompanied by a certificate issued in accordance with § 93.405. If the sheep or goats are not accompanied by the certificate, or if they are found upon inspection at the port of entry to be affected with or exposed to a communicable disease, they shall be refused entry and shall be handled or quarantined, or otherwise disposed of, as the Administrator may direct.

(2) All imported sheep and goats must be officially identified at the time of presentation for entry into the United States with unique identification numbers using official identification devices, or by other means that have been approved by the Administrator, and which will allow the animals that are not imported for immediate slaughter or for feeding for slaughter to be traced at any time to the farm or premises of birth, and for animals imported for immediate slaughter or for feeding for slaughter to the flock of residence. Official identification may not be removed or altered at any time after entry into the United States, except by an authorized USDA representative at the time of slaughter. A list of the acceptable types of official identification may be found on the APHIS Web site at [ADDRESS TO BE ADDED IN FINAL RULE].

(3) All imported sheep and goats other than for immediate slaughter or as provided in paragraph (c) of this section for restricted feeding for slaughter must be identified at the time of presentation for entry into the United States with a country mark using a means and in a location on the animal that has been approved by the Administrator for this use. A list of the acceptable country marks may be found on the APHIS Web site at [ADDRESS TO BE ADDED IN FINAL RULE]

(4) Except as provided in paragraph (b) of this section for sheep or goats imported for immediate slaughter, and in paragraph (c) of this section for sheep or goats for restricted feeding for slaughter, the importer shall maintain records of the sale, death or other disposition of all imported animals which include the official identification number(s) and country marks on the animals at the time of import; a record of the replacement of any lost identification devices linking the new official identification number to the lost device number; the date and manner of disposition; and the name and address of the new owner. Such records must be maintained for a period of 5 years after the sale or death of the animal. The records must be available for APHIS to view and copy during normal business hours.

(b) *Sheep and goats imported for immediate slaughter from anywhere in the world.* (1) Sheep and goats imported for immediate slaughter must be imported only through a port of entry allowed in § 93.403, in a means of conveyance sealed in the country of origin with seals of the national government, and must be moved directly as a group from the port of entry to a recognized slaughtering establishment for slaughter as a group; and

(2) The sheep and goats shall be inspected by the port veterinarian or other designated APHIS representative at the port of entry to determine that the animals are free from evidence of communicable disease and are considered fit for further travel; and

(3) The seals on the means of conveyance must be broken only at the port of entry by the APHIS port veterinarian or at the recognized slaughtering establishment by an authorized USDA representative. If the seals are broken by the APHIS port veterinarian at the port of entry, the means of conveyance must be resealed with seals of the U.S. Government before being moved to the recognized slaughtering establishment; and

(4) The shipment must be accompanied from the port of entry to the recognized slaughtering establishment by APHIS Form VS 17–33.

(c) *Sheep and goats imported for restricted feeding for slaughter.* (1) Sheep and goats for restricted feeding for slaughter purposes may only be imported into the United States from countries or regions that are have been determined to be free of classical scrapie by APHIS, or that have scrapie awareness, surveillance, and control programs that have been evaluated and determined by APHIS to be effective.

(2) The sheep and goats must be imported only through a port of entry allowed in § 93.403 in a means of conveyance sealed in the region of origin with seals of the national government of the region of origin. The seals may be broken either by an APHIS representative at the port of entry, or at the designated feedlot by an authorized APHIS representative. If the seals are broken by an APHIS representative, the means of conveyance must be resealed with seals of the U.S. Government before being moved to the designated feedlot; and

(3) The sheep and goats shall be inspected by the port veterinarian or other designated representative at the port of entry to determine that the animals are free from evidence of communicable disease and are considered fit for further travel; and

(4) The sheep and goats must be moved directly as a group from the port of entry to a designated feedlot; and

(5) The sheep and goats may not be commingled with any sheep or goats that are not being moved directly to slaughter from the designated feedlot; and

(6) The sheep and goats may be moved from the port of entry only to a feedlot designated in accordance with paragraph (c)(11) of this section and must be accompanied from the port of entry to the designated feedlot by APHIS Form VS 17–130 or other movement documentation stipulated in the import permit; and

(7) Upon arrival at the designated feedlot, the official identification for each animal must be reconciled by an APHIS veterinarian, or other official designated by APHIS, with the accompanying documentation; and

(8) The sheep and goats must remain at the designated feedlot until transported to a recognized slaughtering

establishment. The sheep and goats must be moved directly to the recognized slaughtering establishment in a means of conveyance sealed by an accredited veterinarian, a State representative, or an APHIS representative with seals of the U.S. Government. The seals must be broken at the recognized slaughtering establishment only by an authorized USDA representative; and

(9) The sheep and goats must be accompanied to the recognized slaughtering establishments by APHIS Form VS 1–27 or other documentation stipulated in the import permits; and

(10) The sheep and goats must be slaughtered within 12 months of importation.

(11) To be eligible as a designated feedlot to receive sheep and goats imported for feeding, a feedlot must be approved by APHIS. To be approved by APHIS, the feedlot operator or his or her agent must enter into a compliance agreement with the Administrator. The compliance agreement must provide that the operator:

(i) Will monitor all imported feeder animals to ensure that they have the required official identification at the time of arrival to the feedlot; and will not remove official identification from animals unless medically necessary, in which case new official identification will be applied and cross referenced in the records. Any lost official identification will be replaced with eartags provided by APHIS for the purpose and will be linked the new official identification with the lost identification. If more than one animal loses their official identification at the same time, the new official identification will be linked with all possible original identification numbers;

(ii) Will monitor all incoming imported feeder animals to ensure that they have the required country mark, or will maintain all imported animals in separate pens from U.S. origin animals, and that all sheep and goats that enter the feedlot are moved only for slaughter;

(iii) Will maintain records of the acquisition and disposition of all imported sheep and goats entering the feed lot, including the official identification number and all other identifying information, the age of each animal, the date each animal was acquired and the date each animal was shipped to slaughter, and the name and location of the plant where each animal was slaughtered. For imported animals that die in the feedlot, the feedlot will remove the official identification device if affixed to the animal, or will record any other official identification on the animal and place the official identification device or record of official identification in a file with a record of the disposition of the carcass;

(iv) Will maintain copies of the APHIS Forms VS 17–130 and VS 1–27 or other movement documentation deemed acceptable by the Administrator that have been issued for incoming animals and for animals moved to slaughter and that list the official identification of each animal;

(v) Will allow State and Federal animal health officials access to inspect its premises and animals and to review inventory records and other required files upon request;

(vi) Will keep required records for at least 5 years;

(vii) Will designate either the entire feedlot or pens within the feedlot as terminal for sheep and goats to be moved only directly to slaughter;

(viii) Agrees that if inventory cannot be reconciled or if animals are not moved to slaughter as required, the approval of the feedlot to receive additional animals will be immediately withdrawn and any imported animals remaining in the feedlot will be disposed of as directed by the Administrator;

(ix) Agrees that if an imported animal gives birth in the feedlot, the offspring will be humanely euthanized and the birth tissues and soiled bedding disposed of in a sanitary landfill or by another means approved by the Administrator; and

(x) Agrees to maintain sexually intact animals of different genders over 5 months of age in separate enclosures.

(xi) For a feedlot to be approved to receive sheep or goats imported for feeding under this section, but which do not have a country mark, the compliance agreement must also provide that the feedlot will maintain all imported animals in separate pens from U.S. origin animals and that all sheep and goats that enter the feedlot are moved only for slaughter.

(d) Sheep or goats imported other than as provided in paragraph (b) of this section for immediate slaughter or as provided in paragraph (c) of this section for sheep and goats imported for restricted feeding for slaughter must originate from a region recognized as free of classical scrapie by APHIS or from a flock that has certified status in a scrapie flock certification program recognized by APHIS as acceptable for this purpose, or as provided in § 93.404(a)(5) or (6).

(e) *Sheep and goats transiting the United States.* Sheep or goats that meet the entry requirements for immediate slaughter in § 93.405 may transit the United States in accordance with § 93.401 regardless of their intended use in the receiving country.

(f) *Classical scrapie status of foreign regions.* APHIS considers classical scrapie to exist in all regions of the world except those declared free of this disease by APHIS.

(1) A list of regions that APHIS has declared free of classical scrapie is maintained on the APHIS Web site at *http://www.aphis.usda.gov/import_export/animals/animal_disease_status.shtml.* Copies of the list are also available via postal mail, fax, or email upon request to Regionalization Evaluation Services, National Import Export Services, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road, Unit 38, Riverdale, Maryland 20737.

(2) APHIS will add a region to this list only after it conducts an evaluation of the region in accordance with § 92.2 of this subchapter and finds that classical scrapie is not likely to be present in its sheep or goat populations. In the case of a region formerly on this list that is removed due to an outbreak, the region may be returned to the list in accordance with the procedures for reestablishment of a region's disease-free status in § 92.4 of this subchapter. APHIS will remove a region from the list of those it has declared free of classical scrapie upon determining that classical scrapie exists there based on reports APHIS receives of outbreaks of the disease in sheep or goats from veterinary officials of the exporting country, from the World Organization for Animal Health (OIE), from other sources the Administrator determines to be reliable, or upon determining that the region's animal health infrastructure, regulations, or policy no longer qualifies the region for such status.

(Approved by the Office of Management and Budget under control numbers 0579–0040 and 0579–0101)

§ 93.505 [Amended]

■ 12. Amend § 93.505(a), by removing the citation "§ 94.24(b)(6)" and replacing it with the citation "§ 94.31(b)(6)".

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, NEWCASTLE DISEASE, HIGHLY PATHOGENIC AVIAN INFLUENZA, AFRICAN SWINE FEVER, CLASSICAL SWINE FEVER, SWINE VESICULAR DISEASE, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

■ 13. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 450, 7701–7772, 7781–7786, and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

■ 14. Section § 94.15 is revised to read as follows:

§ 94.15 Transit shipment of articles.

(a) Any meat or other animal product or material (excluding materials that are required to be consigned to USDA-approved establishments for further processing) that is eligible for entry into the United States, as provided in this part or in part 95 of this subchapter, may transit the United States by air and ocean ports and overland transportation if the articles are accompanied by the required documentation specified in this part and in part 95.

(b) Any meat or other animal product or material that is not eligible for entry into the United States, as provided in this part or in part 95 of this subchapter, may transit air and ocean ports only, with no overland movement outside the airport terminal area or dock area of the maritime port, in the United States for immediate export if the conditions of paragraphs (b)(1) through (4) of this section are met.

(1) The articles must be sealed in leakproof containers bearing serial numbers during transit. Each container must remain under either Customs seal or Foreign Government seal during the entire time that it is in the United States.

(2) Before transit, the person moving the articles must notify, in writing, the authorized Customs inspector at both the place in the United States where the articles will arrive and the port of export. The notification must include the:

(i) Times and dates of arrival in the United States;

(ii) Times and dates of exportation from the United States;

(iii) Mode of transportation; and

(iv) Serial numbers of the sealed containers.

(3) The articles must transit the United States under Customs bond.

(4) The shipment is exported from the United States within 7 days of its entry.

(c) Pork and pork products from Baja California, Baja California Sur, Campeche, Chihuahua, Coahuila, Nuevo Leon, Quintana Roo, Sinaloa, Sonora, and Yucatan, Mexico, that are not eligible for entry into the United States in accordance with this part may transit the United States via land border ports for immediate export if the following conditions of paragraphs (c)(1) through (4) of this section are met:

(1) The person moving the pork and pork products must obtain a United States Veterinary Permit for Importation and Transportation of Controlled Materials and Organisms and Vectors. To apply for a permit, file a permit application on VS Form 16–3 (available from APHIS, Veterinary Services, National Import Export Services, 4700 River Road Unit 38, Riverdale, MD 20737–1231, or electronically at *http://www.aphis.usda.gov/animal_health/permits/*).

(2) The pork or pork products are packaged at a Tipo Inspección Federal plant in Baja California, Baja California Sur, Campeche, Chihuahua, Coahuila, Nuevo Leon, Quintana Roo, Sinaloa, Sonora, or Yucatan, Mexico, in leakproof containers and sealed with serially numbered seals of the Government of Mexico, and the containers remain sealed during the entire time they are in transit across Mexico and the United States.

(3) The person moving the pork and pork products through the United States notifies, in writing, the authorized Customs inspector at the United States port of arrival prior to such transiting. The notification must include the following information regarding the pork and pork products:

(i) Permit number;

(ii) Times and dates of arrival in the United States;

(iii) Time schedule and route to be followed through the United States; and

(iv) Serial numbers of the seals on the containers.

(4) The pork and pork products must transit the United States under Customs bond and must be exported from the United States within the time limit specified on the permit. Any pork or pork products that have not been exported within the time limit specified on the permit or that have not been transited in accordance with the permit or applicable requirements of this part will be destroyed or otherwise disposed of as the Administrator may direct pursuant to the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*).

(d) Poultry carcasses, parts, or products (except eggs and egg products) from Baja California, Baja California Sur, Campeche, Chihuahua, Nuevo Leon, Quintana Roo, Sinaloa, Sonora, Tamaulipas, or Yucatan, Mexico, that are not eligible for entry into the United States in accordance with the regulations in this part may transit the United States via land ports for immediate export if the following conditions of paragraphs (d)(1) through (4) of this section are met:

(1) The person moving the poultry carcasses, parts, or products through the United States must obtain a United States Veterinary Permit for Importation and Transportation of Controlled Materials and Organisms and Vectors. To apply for a permit, file a permit application on VS Form 16–3 (available from APHIS, Veterinary Services, National Import Export Services, 4700 River Road Unit 38, Riverdale, MD 20737–1231, or electronically at *http://www.aphis.usda.gov/animal_health/permits/*).

(2) The poultry carcasses, parts, or products are packaged at a Tipo Inspección Federal plant in Baja California, Baja California Sur, Campeche, Chihuahua, Nuevo Leon, Quintana Roo, Sinaloa, Sonora, Tamaulipas, or Yucatan, Mexico, in leakproof containers with serially numbered seals of the Government of Mexico, and the containers remain sealed during the entire time they are in transit through Mexico and the United States.

(3) The person moving the poultry carcasses, parts, or products through the United States must notify, in writing, the authorized CBP inspector at the United States port of arrival prior to such transiting. The notification must include the following information regarding the poultry to transit the United States:

(i) Permit number;

(ii) Times and dates of arrival in the United States;

(iii) Time schedule and route to be followed through the United States; and

(iv) Serial numbers of the seals on the containers.

(4) The poultry carcasses, parts, or products must transit the United States under U.S. Customs bond and must be exported from the United States within the time limit specified on the permit. Any poultry carcasses, parts, or products that have not been exported within the time limit specified on the permit or that have not transited in accordance with the permit or applicable requirements of this part will be destroyed or otherwise disposed of as the Administrator may direct pursuant to the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*).

(e) Meat and other products of ruminants or swine from regions listed in § 94.11(a) and pork and pork products from regions listed in § 94.13 that do not meet the requirements of § 94.11(b) or § 94.13(a) may transit through the United States for immediate export, provided the provisions of paragraph (b) of this section are met, and provided all other applicable provisions of this part are met.

(Approved by the Office of Management and Budget under control numbers 0579–0040 and 0579–0145)

§ 94.18 [Amended]

■ 15. In paragraph (a), by adding the word "and" before the citation "94.23" and removing the words ", and § 94.27".

§ 94.24 [Removed and Reserved]

■ 16. Section 94.24 is removed and reserved.

§ 94.25 [Removed and reserved]

■ 17. Section 94.25 is removed and reserved.

■ 18. Section 94.26 is revised to read as follows:

§ 94.26 Gelatin derived from horses, swine, or non-bovine ruminants.

Gelatin derived from horses, swine, or non-bovine ruminants must be accompanied at the time of importation into the United States by an official certificate issued by a veterinarian employed by the national government of the region of origin. The official certificate must state the species of animal from which the gelatin is derived.

§ 94.27 [Removed and reserved]

■ 19. Section 94.27 is removed and reserved.

PART 95—SANITARY CONTROL OF ANIMAL BYPRODUCTS (EXCEPT CASINGS), AND HAY AND STRAW, OFFERED FOR ENTRY INTO THE UNITED STATES

■ 20. The authority citation for part 95 continues to read as follows:

Authority: 7 U.S.C. 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

§ 95.1 [Amended]

■ 21. Section 95.1 is amended by removing the definitions of "Positive for a transmissible spongiform encephalopathy" and "Suspect for a transmissible spongiform encephalopathy".

■ 22. Section 95.4 is amended as follows:

■ a. The section heading is revised;

■ b. Paragraph (a) is revised;

■ c. Paragraph (b)(1) is revised;

■ d. Paragraphs (c)(1)(ii) and (iv) are revised;

■ e. Paragraphs (c)(2) and (c)(3) are removed, and paragraphs (c)(4) through (c)(8) are redesignated as paragraphs (c)(2) through (c)(6), respectively;

■ f. In newly redesignated paragraph (c)(3), the first sentence is revised;

■ g. In newly redesignated paragraph (c)(5), the reference "(c)(5)" is removed and the reference "(c)(3)" is added in its place;

■ h. In newly redesignated paragraph (c)(6), the words "National Center for Import and Export" are removed and the words "National Import Export Services" are added in their place;

■ i. Paragraphs (d) and (e) are removed;

■ j. Paragraph (f) and the Note to paragraph (f) are redesignated as paragraph (d) and the Note to paragraph (d), respectively; and

■ k. Paragraph (g) is removed.

The revisions read as follows:

§ 95.4 Restrictions on the importation of processed animal protein, offal, tankage, fat, glands, tallow, tallow derivatives, and serum due to bovine spongiform encephalopathy.

(a) Except as provided in this section, or in § 94.15, any of the materials listed in paragraph (b) in this section derived from animals, or products containing such materials, are prohibited importation into the United States.

(b) * * * (1) Processed animal protein, tankage, offal, tallow, and tallow derivatives, unless in the opinion of the Administrator, the tallow cannot be used in feed;

* * * * *

(c) * * *

(1) * * *

(ii) Cervids and camelids, and the material is not ineligible for importation under the conditions of § 95.5.

* * * * *

(iv) Ovines and caprines, and the material is not ineligible for importation under the conditions of § 95.5.

* * * * *

(3) If the facility processes or handles any processed animal protein, inspection of the facility for compliance with the provisions of this section is conducted at least annually by a representative of the government agency responsible for animal health in the region, unless the region chooses to have such inspection conducted by APHIS. * * *

* * * * *

§ 95.15 [Removed and reserved]

■ 23. Section 95.15 is removed and reserved.

§ 95.40 [Removed and reserved]

■ 24. Section 95.40 is removed and reserved.

PART 96—RESTRICTION OF IMPORTATIONS OF FOREIGN ANIMAL CASINGS OFFERED FOR ENTRY INTO THE UNITED STATES

■ 25. The authority citation for part 96 continues to read as follows:

Authority: 7 U.S.C. 8301–8317; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.4.

§ 96.2 [Amended]

■ 26. Section 96.2 is amended as follows:

■ a. Paragraph (b)(1) is removed.

■ b. Paragraph (b)(2) is redesignated as paragraph (b)(1).

■ c. A new paragraph (b)(2) is added and reserved.

■ d. In paragraph (c)(3), by removing the words "paragraphs (b)(2)(i) through (b)(3)(iv)" and replacing them with the words "paragraph (b)(1)."

PART 98—IMPORTATION OF CERTAIN ANIMAL EMBRYOS AND ANIMAL SEMEN

■ 27. The authority citation for part 98 continues to read as follows:

Authority: 7 U.S.C. 1622 and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

■ 28. Section 98.2 is amended by adding, in alphabetical order, definitions for "Oocyte" and "Transmissible spongiform encephalopathies (TSEs)" to read as follows.

§ 98.2 Definitions.

* * * * *

Oocyte. The first and second maturation stages of a female reproductive cell prior to fertilization.

* * * * *

Transmissible spongiform encephalopathies (TSEs). A family of progressive and generally fatal neurodegenerative disorders thought to be caused by abnormal proteins, called prions, that typically produce characteristic microscopic changes, including, but not limited to, non-inflammatory neuronal loss, giving a spongiform appearance to tissues in the brains and nervous systems of affected animals.

* * * * *

§ 98.3 [Amended]

■ 29. Section 98.3 is amended as follows:

■ a. In paragraph (d), by adding the words "*except that,* for sheep and goats only, the donor sire must meet the scrapie requirements in § 98.35 instead of the requirements in § 93.435 of this chapter;" after the words "United States;";

■ b. In paragraph (e), by removing the citation "part 92" and adding the citation "part 93" in its place, and by adding the words "*except that,* for sheep and goats only, the donor dam must meet the requirements for embryo donors in § 98.10(a) instead of the requirements in § 93.435 of this chapter;" after the words "United States;"; and

■ c. In paragraph (f), by removing the words "§ 93.404(a)(2) or (3)" and adding the words "§ 93.404(a)(3) or (4)" in their place.

■ 30. Section 98.4 is amended by adding paragraph (e) to read as follows:

§ 98.4 Import permit.

* * * * *

(e) Applications for a permit to import sheep and goat embryos and oocytes must include the flock identification number of the receiving flock and the premises or location identification number assigned in the APHIS National Scrapie Database; or, in the case of embryos or oocytes moving to a storage facility, the premises or location identification number must be included.

§ 98.5 [Amended]

■ 31. In § 98.5, paragraph (b) is removed and reserved.

■ 32. Section 98.10a is revised to read as follows:

§ 98.10a Sheep and goat embryos and oocytes.

(a) Sheep and goat embryos or oocytes collected from donors located in, or originating from, regions recognized by APHIS as free of classical scrapie, or which are from a flock or herd that has certified status in a scrapie flock certification program recognized by APHIS as acceptable, may be imported in accordance with §§ 98.3 through 98.8. In addition to the requirements of § 98.5, the health certificate must indicate that the embryos or oocytes were collected, processed, and stored in conformity with the requirements in § 98.3(g).

(b) In vivo-derived sheep and goat embryos or oocytes collected from donors located in, or originating from, regions or flocks not recognized by APHIS as free of classical scrapie, may be imported in accordance with §§ 98.3 through 98.8 and the following conditions:

(1) The embryos or oocytes must be accompanied by a health certificate meeting the requirements listed in § 98.5, and with the following additional certifications:

(i) The embryos or oocytes were collected, processed and stored in conformity with the requirements in § 98.3(g).

(ii) For in vivo-derived sheep embryos only: The embryo is of the genotype AAQR or AARR based on official testing of the parents or the embryo.

(iii) Certificates for sheep embryos that are not of the genotype AAQR or AARR, and for all goat embryos, must contain these additional certifications:

(A) In the country or zone:

(*1*) TSEs of sheep and goats are compulsorily notifiable;

(*2*) A scrapie awareness, surveillance, monitoring, and control system is in place;

(*3*) TSE-affected sheep and goats are killed and completely destroyed;

(*4*) The feeding to sheep and goats of meat-and-bone meal of ruminant origin has been banned and the ban is effectively enforced in the whole country.

(B) The donor animals:

(*1*) Have been kept since birth in flocks or herds in which no case of scrapie had been confirmed during their residency; and

(*2*) Are permanently identified to enable a traceback to their flock or herd of origin, and this identification is recorded on the certificate accompanying the embryo(s) and linked to the embryo container identification; and

(*3*) Showed no clinical sign of scrapie at the time of embryo/oocyte collection; and

(*4*) Have not tested positive for, and are not suspect for, a transmissible spongiform encephalopathy; and

(*5*) Are not under movement restrictions within the country or region of origin as a result of exposure to a transmissible spongiform encephalopathy.

(c) Any additional certifications or testing requirements established by APHIS, based on genetic susceptibility of the embryo or embryo parents, and/or on scrapie testing of the embryo donor, will be listed in the APHIS import permit. Such certifications or required test results must also be recorded on the health certificate accompanying the embryo(s).

(d) Sheep and goat embryos or oocytes may only be imported for transfer to recipient females in the United States if the flock or herd in which the recipients reside is listed in the National Scrapie Database; except that APHIS may permit importation of sheep and goat embryos or oocytes to an APHIS-approved storage facility where they may be kept until later transferred to recipient females in a flock or herd in the United States that is listed in the APHIS National Scrapie Database, and under such conditions as the Administrator deems necessary to trace the movement of the imported embryos or oocytes. Imported sheep or goat embryos or oocytes that are not otherwise restricted by the conditions of an import permit may be transferred from a listed flock or herd to any other listed flock or herd or from an embryo storage facility to a listed flock or herd with written notification to the responsible APHIS Veterinary Services Service Center.

(e) The importer, the owner of a recipient flock or herd to which delivery of the embryos or oocytes is made, or the owner of an APHIS-approved embryo or oocyte storage facility must maintain records of the disposition (including destruction) of imported or stored embryos or oocytes for 5 years after the embryo or oocyte is transferred or destroyed. These records must be made available during normal business hours to APHIS representatives on request for review and copying.

(f) In vitro-derived or manipulated sheep or goat embryos and oocytes. As provided in § 98.10, APHIS will make a case-by-case determination or establish conditions in an import permit that includes any additional mitigations deemed necessary to prevent the introduction of disease.

(g) The owner of all sheep or goats resulting from embryos or oocytes imported under this section shall:

(1) Identify them at birth with a permanent official identification number consistent with the provisions of § 79.2 of this chapter; such identification may not be removed except at slaughter and must be replaced if lost;

(2) Maintain a record linking the official identification number to the imported embryo or oocyte including a record of the replacement of lost tags;

(3) Maintain records of any sale or disposition of such animals, including the date of sale or disposition, the name and address of the buyer, and the animal's official identification number; and

(4) Keep the required records for a period of 5 years after the sale or death of the animal. APHIS may view and copy these records during normal business hours.

(Approved by the Office of Management and Budget under control numbers 0579–0040 and 0579–0101)

■ 33. Section 98.13 is amended by adding paragraph (c) to read as follows:

§ 98.13 Import permit.

* * * * *

(c) Applications for a permit to import sheep and goat embryos and oocytes must include the flock identification number of the receiving flock and the premises or location identification number assigned in the APHIS National Scrapie Database; or, in the case of embryos or oocytes moving to a storage facility, the premises or location identification number must be included.

* * * * *

§ 98.15 [Amended]

■ 34. Section 98.15 is amended as follows:

■ a. In paragraph (a), introductory text, by removing the words "follows, except that, with regard to bovine spongiform encephalopathy, the following does not apply to bovines, cervids, or camelids" and adding the word "follows:" in their place.

■ b. In paragraph (a)(1)(i), by removing the words "Bovine spongiform encephalopathy, contagious" and adding the word "Contagious" in their place.

■ c. In paragraph (a)(2)(i), by removing the words "Bovine spongiform encephalopathy, contagious" and adding the word "Contagious" in their place.

■ d. In paragraph (a)(7)(i)(A), by removing the words "Bovine spongiform encephalopathy, brucellosis" and adding the word "Brucellosis" in their place.

■ e. In paragraph (a)(8)(i)(A), by removing the words "Bovine spongiform encephalopathy, brucellosis" and adding the word "Brucellosis" in their place.

■ 35. Section 98.30 is amended by adding, in alphabetical order, a definition for "Establishment" to read as follows.

§ 98.30 Definitions.

* * * * *

Establishment. The premises in which animals are kept.

* * * * *

■ 36. Section 98.35 is amended as follows:

■ a. Paragraph (e)(1)(ii) is removed and paragraphs (e)(1)(iii) and (e)(1)(iv) are redesignated as paragraphs (e)(1)(ii) and (e)(1)(iii), respectively;

■ b. Newly redesignated (e)(1)(iii) is revised;

■ c. New paragraph (e)(1)(iv) is added;

■ d. Paragraph (e)(3) is revised; and

■ e. Paragraphs (e)(4) and (5) are added.

The revisions and additions read as follows:

§ 98.35 Declaration, health certificate, and other documents for animal semen.

* * * * *

(e) * * *

(1) * * *

(iii) The donor animal is not, nor was not, restricted in the country of origin, or destroyed, due to exposure to a TSE.

(iv) Any additional certifications or testing requirements established by APHIS, based on genetic susceptibility of the semen donor, and/or on scrapie testing of the donor or semen, will be listed in the APHIS import permit. Such certifications or required test results must also be recorded on the health certificate accompanying the semen.

* * * * *

(3) Sheep and goat semen may only be imported for transfer to recipient females in the United States if the flock or herd in which recipients reside is listed in the National Scrapie Database; except that APHIS may permit importation of sheep and goat semen to an APHIS-approved storage facility where they may be kept until later transferred to recipient females in a flock or herd in the United States that is listed in the APHIS National Scrapie Database, and under such conditions as the Administrator deems necessary to trace the movement of the imported semen. Imported sheep or goat semen that is not otherwise restricted by the conditions of an import permit may be transferred from a listed flock or herd to any other listed flock or herd or from an approved semen storage facility to a listed flock or herd or another approved semen storage facility with written notification to the responsible APHIS Veterinary Services Service Center.

(4) The importer, the owner of a recipient flock or herd to which delivery of the semen is made, or the owner of an APHIS-approved semen storage facility must maintain records of the disposition (including destruction) of imported or stored semen for 5 years after the semen is transferred or destroyed. These records must be made available during normal business hours to APHIS representatives on request for review and copying.

(5) The owner of all sheep or goats resulting from semen imported under this section shall:

(i) Identify them at birth with a permanent official identification number consistent with the provisions of § 79.2 of this chapter; such identification may not be removed except at slaughter and must be replaced if lost;

(ii) Maintain a record linking the official identification number to the imported semen, including a record of the replacement of lost tags;

(iii) Maintain records of any sale or disposition of such animals, including the date of sale or disposition, the name and address of the buyer, and the animal's official identification number; and

(iv) Keep the required records for a period of 5 years after the sale or death of the animal. APHIS may view and copy these records during normal business hours.

* * * * *

Done in Washington, DC, this 12th day of July 2016.

Edward Avalos,

Under Secretary for Marketing and Regulatory Programs.

[FR Doc. 2016–16816 Filed 7–15–16; 8:45 am]

BILLING CODE 3410–34–P

Notices

Federal Register
Vol. 81, No. 137
Monday, July 18, 2016

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2015–0063]

International Trade Data System Test Concerning the Electronic Submission to the Automated Commercial Environment of Data Using the Partner Government Agency Message Set

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Animal and Plant Health Inspection Service (APHIS), in coordination with U.S. Customs and Border Protection (CBP), is advising the public that a pilot plan to test and assess the International Trade Data System for the electronic submission of data required by APHIS Animal Care, Biotechnology Regulatory Services, Plant Protection and Quarantine, and Veterinary Services for processing in the Automated Commercial Environment has proven successful and will end on August 15, 2016. After this date, all submissions of APHIS-required data must be submitted in accordance with the procedures on the CBP Web site.

DATES: The test will end August 15, 2016.

FOR FURTHER INFORMATION CONTACT: For technical questions related to the Automated Commercial Environment or Automated Broker Interface transmissions, contact your assigned CBP client representative. Interested parties without an assigned client representative should direct their questions to Mr. Steven Zaccaro, U.S. Customs and Border Protection, DHS, 1400 L Street NW., 2nd floor, Washington, DC 20229–1225; *steven.j.zaccaro@cbp.dhs.gov.*

For PGA-related questions, contact Ms. Emi Wallace, U.S. Customs and Border Protection, DHS, 1400 L Street NW., 2nd floor, Washington, DC 20229–1225; *emi.r.wallace@cbp.dhs.gov.*

For APHIS program-related questions, contact Ms. Cindy Walters, APHIS Liaison for Automated Commercial Environment, International Trade Data System, Management and Program Analyst, Quarantine Policy and Analysis Staff, PPQ, APHIS, 4700 River Road Unit 60, Riverdale, MD 20720; 301–851–2273; *Cindy.L.Walters@aphis.usda.gov.*

SUPPLEMENTARY INFORMATION: The National Customs Automation Program (NCAP) was established in Subtitle B of Title VI—Customs Modernization, in the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057, 2170, December 8, 1993; see 19 U.S.C. 1411). Through NCAP, the initial thrust of customs modernization was on trade compliance and the development of the Automated Commercial Environment (ACE), the planned successor to the Automated Commercial System (ACS). ACE is an automated and electronic system for commercial trade processing intended to streamline business processes, facilitate growth in trade, ensure cargo security, and foster participation in global commerce, while ensuring compliance with U.S. laws and regulations and reducing costs for U.S. Customs and Border Protection (CBP) and all of its communities of interest. The ability to meet these objectives depends on successfully modernizing CBP's business functions and the information technology that supports those functions.

CBP's modernization efforts are accomplished through phased releases of ACE component functionality designed to replace specific legacy ACS functions or test new automated procedures. The Automated Broker Interface (ABI) allows participants to electronically file required import data with CBP and transfers that data into ACE.

On October 2, 2015, the Animal and Plant Health Inspection Service (APHIS) published a notice in the **Federal Register** (80 FR 59721, Docket No. APHIS–2015–0063) [1] announcing a pilot test in furtherance of the International Trade Data System (ITDS). The purpose of ITDS is to eliminate redundant information filing requirements, efficiently regulate the flow of commerce, and effectively enforce laws and regulations relating to international trade, by establishing a single portal system, operated by CBP, for the collection and distribution of standard electronic import and export data required by all participating Federal agencies. As part of this test, APHIS-required data was transmitted electronically to operational ports using either ACE, ABI, or the Document Image System.[2]

APHIS is announcing that the APHIS core pilot has proven successful and, as a result, will end August 15, 2016. After this date, entry filers will be required to file electronic entries in ACE with APHIS data and some or all APHIS forms using the method designated on the CBP Web site for the submission of the APHIS data and forms. APHIS will still collect some paper documentation, such as phytosanitary certificates and health certificates for live animals and animal products, due to an Office of Management and Budget waiver. Information regarding methods of submission is available on the CBP Web site at *https://www.cbp.gov/sites/default/files/assets/documents/2016-Mar/PGA%20Forms%20Document%20March%2030%202016.pdf.*

Done in Washington, DC, this 13th day of July 2016.

Jere L. Dick,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2016–16932 Filed 7–15–16; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of New Fee Site

AGENCY: Carson National Forest, USDA Forest Service.

ACTION: Notice of new fee site.

SUMMARY: The Carson National Forest is proposing to charge a $100 fee for the overnight rental of the Amole Canyon Group Shelter. This facility has been

---

[1] To view the notice, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2015-0063.*

[2] CBP announced changes to the Document Image System test in a notice published in the **Federal Register** on October 15, 2015 (80 FR 62082, Docket No. USCP–2015–0046). To view this notice, go to *http://www.regulations.gov/#!docketDetail;D=USCBP-2015-0046.*

recently constructed and has not been available for recreation use prior to this date. Rentals of other shelters in the Taos and Santa Fe area have shown that people appreciate and enjoy the availability of group meeting places for events and for family gatherings. Funds from the shelter reservation will be used for the continued operation and maintenance of the facility. These fees are only proposed and will be determined upon further analysis and public comment.

DATES: Send any comments about these fee proposals by October 2016 so comments can be compiled, analyzed and shared with a Recreation Resource Advisory Committee. Should the fee proposal move forward, the site will likely be available for reservation May 2017.

ADDRESSES: Forest Supervisor, Carson National Forest, 208 Cruz Alta Road, Taos, NM 87557.

FOR FURTHER INFORMATION CONTACT: Sharon Cuevas, Recreation Fee Coordinator, (505) 842–3235.

SUPPLEMENTARY INFORMATION: The Federal Recreation Lands Enhancement Act (Title VII, Pub. L. 108–447) directed the Secretary of Agriculture to publish a six month advance notice in the **Federal Register** whenever new recreation fee areas are established.

This new fee will be reviewed by a Recreation Resource Advisory Committee prior to a final decision and implementation.

Currently Federal and State agencies in the state of New Mexico offer group shelter rentals of this type as part of a successful program. These sites receive a high level of use and handle the large group sizes common in the area.

The site consists of a large log-built canopy shelter on a concrete pad with two vault toilets, a pedestal grill, accessible parking, and many paved parking spurs to accommodate several camper trailers. The Amole Canyon Group Shelter is located 15 miles from the community of Taos New Mexico adjacent to the High Road to Taos Scenic Byway.

A business analysis of the Amole Canyon Group Shelter has shown that people desire having this sort of recreation experience on the Carson National Forest. A market analysis indicates that the $100/per night fee is both reasonable and acceptable for this sort of unique recreation experience.

People wanting to rent this facility will need to do so through the National Recreation Reservation Service, at *www.recreation.gov* or by calling 1–877–444–6777. The National Recreation Reservation Service charges a $9 fee for reservations.

Dated: July 8, 2016.

James Duran,

Carson National Forest Supervisor.

[FR Doc. 2016–16750 Filed 7–15–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Rural Business Lending National Stakeholder Forum 2016—Business and Industry Guaranteed Loan Program

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice of a public meeting.

SUMMARY: The Rural Business-Cooperative Service (RBS), an Agency within USDA Rural Development, is holding a forum to introduce the updated Business and Industry (B&I) Guaranteed Loanmaking and Servicing Regulations, as published in the **Federal Register** Friday, June 3, 2016. Major changes to the program include strengthened criteria for non-regulated lender participation, provisions for New Markets Tax Credit and Cooperative Stock Purchase Program, and modified loan scoring criteria.

Speakers from the Agency will discuss the new rule to educate lenders and borrowers on changes to program eligibility and servicing. The National Stakeholder Forum can be attended via webinar or in person.

DATES: National Stakeholder Forum: The National Stakeholder Forum will be held on Friday, July 29, 2016, from 1:00 p.m. to 3:00 p.m. Eastern Daylight Time.

Registration: It is requested that you register by 12 p.m. Eastern Daylight Time Wednesday, July 27, 2016, to attend the forum in person. See the Instructions for Attending the Meeting section of this notice for additional information. If you wish to participate via webinar, you must register for the webinar at *https://cc.readytalk.com/r/njphkhxlsyvr&eom* prior to or during the webinar.

ADDRESSES: The National Stakeholder Forum will take place in Room 107–A of the Whitten Building on 1400 Jefferson Drive SW., located between 12th and 14th Streets SW., in Washington DC 20250.

FOR FURTHER INFORMATION CONTACT: Janna Bruce, Rural Business-Cooperative Service, Room 6858, 1400 Independence Avenue SW., Washington, DC 20250, Telephone: (202)401–0081. Email: *Janna.Bruce@wdc.usda.gov.* Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact Janna Bruce using the information above.

SUPPLEMENTARY INFORMATION: The B&I Guaranteed Loan Program is authorized by the Consolidated Farm and Rural Development Act and provides loan guarantees to banks and other approved lenders to finance private businesses located in rural areas. The Rural Business-Cooperative Service (Agency) is the agency within the Rural Development mission area of the United States Department of Agriculture (USDA) responsible for administering the B&I Guaranteed Loan Program. The Agency published a proposed rule on September 15, 2014, that proposed changes to refine the regulations for the B&I Guaranteed Loan Program in an effort to improve program delivery, clarify the regulations to make them easier to understand, and reduce delinquencies. The final rule was published in the **Federal Register** on June 3, 2016 (*https://federalregister.gov/a/2016-12945*).

In order to familiarize the public with the new rule, representatives from the U.S. Department of Agriculture (USDA) are conducting this National Stakeholder Forum. Discussion points will include the new criteria for non-regulated lender participation, expanded program eligibility, and changes to loan servicing requirements. Participants will be afforded the opportunity to ask questions on the material in the presentation through the webinar software or in person.

Date: July 29, 2016.

Time: 1:00 p.m.–3:00 p.m., Eastern Daylight Time.

Location information: USDA Whitten Building, 1400 Jefferson Drive SW., Room 107–A, Washington, DC 20250.

Instructions for Attending the Meeting

Space for attendance at the meeting is limited. Due to USDA headquarters security and space requirements, all persons wishing to attend the forum in person must send an email to *Janna.Bruce@wdc.usda.gov* with "RBS Stakeholder Forum" in the subject line by 12 p.m. Eastern Daylight Time Wednesday, July 27, 2016. Registrations will be accepted until maximum room capacity is reached. Seating will be available on a first come, first serve basis.

To register, provide the following information:

- First and Last Names

- Organization
- Title
- Email
- City, State

Upon arrival at the USDA Whitten Building, registered persons must provide valid photo identification in order to enter the building; visitors need to enter the Whitten Building on the mall side. Please allow extra time to get through security.

USDA Non-Discrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *https://www.ascr.usda.gov/filing-program-discrimination-complaint-usda-customer* and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by:

(1) *Mail:* U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW., Washington, DC 20250–9410;

(2) *fax:* (202) 690–7442; or

(3) *email: program.intake@usda.gov.* USDA is an equal opportunity provider, employer, and lender.

Dated: July 8, 2016.

Samuel H. Rikkers,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 2016–16921 Filed 7–15–16; 8:45 am]

BILLING CODE 3410–XY–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Illinois Advisory Committee To Discuss Voting Rights in the State

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Illinois Advisory Committee (Committee) will hold a meeting on Tuesday, August 23, 2016, at 12:00 p.m. CDT. The purpose of this meeting is to discuss voting rights in the state, and to identify the scope of study for the next Committee inquiry on the topic.

This meeting is available to the public through the following toll-free call-in number: 888–427–9419, conference ID: 4580773. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement at the end of the meeting. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Member of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Regional Programs Unit, U.S. Commission on Civil Rights, 55 W. Monroe St., Suite 410, Chicago, IL 60615. They may also be faxed to the Commission at (312) 353–8324, or emailed to Carolyn Allen at *callen@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meeting at *https://database.faca.gov/committee/meetings.aspx?cid=246.* Click on the "Meeting Details" and "Documents" links to download. Records generated from this meeting may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meeting. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

Welcome and Introductions
Discussion: Voting Rights in Illinois
Public Comment
Future plans and actions
Adjournment

DATES: The meeting will be held on Tuesday, August 23, 2016, at 12:00 p.m. CDT.

Public Call Information:
Dial: 888–427–9419.
Conference ID: 4580773.

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski at *mwojnaroski@usccr.gov* or 312–353–8311.

Dated: July 13, 2016.

David Mussatt,

Chief, Regional Programs Unit.

[FR Doc. 2016–16902 Filed 7–15–16; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–12–2016]

Foreign-Trade Zone (FTZ) 168—Dallas/Fort Worth, Texas, Authorization of Limited Production Activity, Gulfstream Aerospace Corporation, (Passenger Jet Aircraft), Dallas, Texas

On March 8, 2016, the Metroplex International Trade Development Corporation, grantee of FTZ 168, submitted a notification of proposed production activity to the FTZ Board on behalf of Gulfstream Aerospace Corporation, within Site 10, in Dallas, Texas.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (81 FR 14834, March

18, 2016). The FTZ Board has determined that further review of part of the proposed activity is warranted at this time. The production activity described in the notification is authorized on a limited basis, subject to the FTZ Act and the Board's regulations, including Section 400.14, and further subject to a restriction requiring admission of foreign-status upholstery leather in privileged foreign status (19 CFR 146.41).

Dated: July 5, 2016.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2016–16371 Filed 7–15–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–043]

Countervailing Duty Investigation of Stainless Steel Sheet and Strip From the People's Republic of China: Preliminary Affirmative Determination and Alignment of Final Determination With Final Antidumping Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of stainless steel sheet and strip (stainless sheet and strip) from the People's Republic of China (PRC). The period of investigation is January 1, 2015, through December 31, 2015. We invite interested parties to comment on this preliminary determination.

DATES: Effective July 18, 2016.

FOR FURTHER INFORMATION CONTACT: Emily Halle, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–0176.

SUPPLEMENTARY INFORMATION:

Scope of the Investigation

The products covered by this investigation are stainless sheet and strip from the PRC. For a complete description of the scope of this investigation, *see* Appendix II.

Methodology

The Department is conducting this countervailing duty (CVD) investigation in accordance with section 701 of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we preliminarily determine that there is a subsidy, *i.e.*, a financial contribution by an "authority" that gives rise to a benefit to the recipient, and that the subsidy is specific.[1] For a full description of the methodology underlying our preliminary conclusions, *see* the Preliminary Decision Memorandum.[2] A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/*. The signed Preliminary Decision Memorandum and the electronic version are identical in content.

The Department notes that, in making these findings, we relied, in part, on facts available and, because we find that one or more respondents did not act to the best of their ability to respond to the Department's requests for information, we drew an adverse inference where appropriate in selecting from among the facts otherwise available.[3] For further information, *see* "Use of Facts Otherwise Available and Adverse Inferences" in the Preliminary Decision Memorandum.

Alignment

As noted in the Preliminary Decision Memorandum, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), we are aligning the final CVD determination in this investigation with the final determination in the companion antidumping duty (AD) investigation of stainless sheet and strip from the PRC based on a request made by Petitioners.[4] Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than November 23, 2016, unless postponed.

Preliminary Determination and Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated an individual estimated countervailable subsidy rate for Shanxi Taigang Stainless Steel Co. Ltd. (Taigang), the only cooperating, individually-investigated exporter/producer. Additionally, in accordance with sections 703(d) and 705(c)(5)(A) of the Act, for companies not individually investigated, we apply an "all-others" rate, which is normally calculated by weight averaging the subsidy rates of the companies selected for individual investigation by those companies' exports of the subject merchandise to the United States. However, under section 705(c)(5)(A)(i) of the Act, the all-others rate excludes zero and *de minimis* rates calculated for the exporters and producers individually investigated, as well as rates based entirely on facts otherwise available. Therefore, we have excluded the rates based entirely on facts otherwise available assigned to Ningbo Baoxin Stainless Steel Co., Ltd. (Ningbo Baoxin) and Daming International Import Export Co. Ltd. (Daming) from the all-others rate. Because the only individually calculated rate that is not zero, *de minimis,* or based on facts otherwise available is the rate calculated for Taigang, in accordance with section 705(c)(5)(A)(i) of the Act, the rate calculated for Taigang is preliminarily assigned as the all-others rate. The preliminary estimated countervailable subsidy rates are summarized in the table below.

---

[1] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[2] *See* Memorandum, "Decision Memorandum for the Preliminary Affirmative Determination: Countervailing Duty Investigation of Stainless Steel Sheet and Strip From the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[3] *See* sections 776(a) and (b) of the Act.

[4] *See* Letter from Petitioners, "Countervailing Duty Investigation of Stainless Steel Sheet and Strip from the People's Republic of China—Petitioners' Request to Align the Countervailing Duty Final Determination with the Companion Antidumping Duty Final Determination," June 24, 2016.

Company	Subsidy rate (percent)
Shanxi Taigang Stainless Steel Co. Ltd	57.30
Ningbo Baoxin Stainless Steel Co., Ltd., Baosteel Stainless Steel Co. Ltd., Baoshan Iron & Steel Co., Ltd., Baosteel Desheng Stainless Steel Co., Ltd., Baosteel Co., Ltd., Bayi Iron & Steel Co., Ltd., Ningbo Iron & Steel Co., Ltd., Shaoguan Iron & Steel Co., Ltd., Guangdong Shaoguan Iron & Steel Co., Ltd., and Zhanjiang Iron & Steel Co., Ltd	193.12
Daming International Import Export Co. Ltd. and Tianjin Taigang Daming Metal Product Co., Ltd	193.12
All-Others	57.30

In accordance with section 703(d)(2) of the Act, we will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of stainless sheet and strip from the PRC as described in the "Scope of the Investigation. Pursuant to 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit equal to the rests indicated above. Section 703(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the later of (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered, or (b) the date on which notice of initiation of the investigation was published. On June 27, 2016, we preliminarily found that critical circumstances exist for imports produced or exported by Taigang, Ningbo Baoxin, Daming, and all-other exporters or producers.[5] Accordingly, for these companies, in accordance with section 703(e)(2)(A) of the Act, suspension of liquidation of stainless sheet and strip from the PRC, as described in the "Scope of the Investigation," shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice, the date suspension of liquidation is first ordered.

Verification

As provided in section 782(i)(1) of the Act, we intend to verify the information submitted by the respondents prior to making our final determination.

International Trade Commission Notification

In accordance with section 703(f) of the Act, we will notify the International Trade Commission (ITC) of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Enforcement and Compliance.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Disclosure and Public Comment

The Department intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement.[6] Interested parties may submit case and rebuttal briefs, as well as request a hearing.[7] For a schedule of the deadlines for filing case briefs, rebuttal briefs, and hearing requests, *see* the Preliminary Decision Memorandum.

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: July 11, 2016.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope Comments
IV. Scope of the Investigation
V. Preliminary Determination of Critical Circumstances
VI. Injury Test
VII. Application of the CVD Law to Imports From the PRC
VIII. Alignment
IX. Use of Facts Otherwise Available and Adverse Inferences
X. Subsidies Valuation
XI. Benchmarks and Interest Rates
XII. Analysis of Programs
XIII. Disclosure and Public Comment
XIV. Conclusion

Appendix II

Scope of the Investigation

The merchandise covered by this investigation is stainless steel sheet and strip, whether in coils or straight lengths. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product with a width that is greater than 9.5 mm and with a thickness of 0.3048 mm and greater but less than 4.75 mm, and that is annealed or otherwise heat treated, and pickled or otherwise descaled. The subject sheet and strip may also be further processed (*e.g.*, cold-rolled, annealed, tempered, polished, aluminized, coated, painted, varnished, trimmed, cut, punched, or slit, etc.) provided that it maintains the specific dimensions of sheet and strip set forth above following such processing. The products described include products regardless of shape, and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.*, products which have been "worked after rolling" (*e.g.*, products which have been beveled or rounded at the edges).

For purposes of the width and thickness requirements referenced above: (1) Where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above; and (2) where the width and thickness vary for a specific product (*e.g.*, the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, etc.), the measurement at its greatest width or thickness applies.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this investigation unless specifically excluded.

Subject merchandise includes stainless steel sheet and strip that has been further processed in a third country, including but not limited to cold-rolling, annealing, tempering, polishing, aluminizing, coating, painting, varnishing, trimming, cutting, punching, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the stainless steel sheet and strip.

---

[5] *See Countervailing Duty Investigation of Stainless Steel Sheet and Strip From the People's Republic of China: Preliminary Determination of Critical Circumstances,* 81 FR 41519 (June 27, 2016).

[6] *See* 19 CFR 351.224(b).

[7] *See* 19 CFR 351.309(c)–(d), 19 CFR 351.310(c).

Excluded from the scope of this investigation are the following: (1) Sheet and strip that is not annealed or otherwise heat treated and not pickled or otherwise descaled; (2) plate (*i.e.*, flat-rolled stainless steel products of a thickness of 4.75 mm or more); and (3) flat wire (*i.e.*, cold-rolled sections, with a mill edge, rectangular in shape, of a width of not more than 9.5 mm).

The products under investigation are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7219.13.0031, 7219.13.0051, 7219.13.0071, 7219.13.0081, 7219.14.0030, 7219.14.0065, 7219.14.0090, 7219.23.0030, 7219.23.0060, 7219.24.0030, 7219.24.0060, 7219.32.0005, 7219.32.0020, 7219.32.0025, 7219.32.0035, 7219.32.0036, 7219.32.0038, 7219.32.0042, 7219.32.0044, 7219.32.0045, 7219.32.0060, 7219.33.0005, 7219.33.0020, 7219.33.0025, 7219.33.0035, 7219.33.0036, 7219.33.0038, 7219.33.0042, 7219.33.0044, 7219.33.0045, 7219.33.0070, 7219.33.0080, 7219.34.0005, 7219.34.0020, 7219.34.0025, 7219.34.0030, 7219.34.0035, 7219.34.0050, 7219.35.0005, 7219.35.0015, 7219.35.0030, 7219.35.0035, 7219.35.0050, 7219.90.0010, 7219.90.0020, 7219.90.0025, 7219.90.0060, 7219.90.0080, 7220.12.1000, 7220.12.5000, 7220.20.1010, 7220.20.1015, 7220.20.1060, 7220.20.1080, 7220.20.6005, 7220.20.6010, 7220.20.6015, 7220.20.6060, 7220.20.6080, 7220.20.7005, 7220.20.7010, 7220.20.7015, 7220.20.7060, 7220.20.7080, 7220.90.0010, 7220.90.0015, 7220.90.0060, and 7220.90.0080. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

[FR Doc. 2016–16947 Filed 7–15–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–870]

Certain Oil Country Tubular Goods From the Republic of Korea: Initiation and Expedited Preliminary Results of Changed Circumstances Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* July 18, 2016.

SUMMARY: In response to a request from Hyundai Steel Co. Ltd. (Hyundai Steel), a producer/exporter of certain oil country tubular goods (OCTG) from the Republic of Korea (Korea), and pursuant to section 751(b) of the Tariff Act of 1930, as amended (the Act), 19 CFR 351.216 and 351.221(c)(3)(ii), the Department is initiating a changed circumstances review (CCR) and issuing this notice of preliminary results. We have preliminarily determined that Hyundai Steel is the successor-in-interest to the former Hyundai HYSCO and, as such, if the Department upholds these preliminary results in the final results, Hyundai Steel will be entitled to the antidumping duty deposit rate currently assigned to Hyundai HYSCO with respect to the subject merchandise.

FOR FURTHER INFORMATION CONTACT: Victoria Cho, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–5075.

SUPPLEMENTARY INFORMATION:

Background

On September 10, 2014, the Department published an antidumping duty order on OCTG from Korea.[1]

On February 24, 2016,[2] Hyundai Steel informed the Department that effective July 1, 2015, it had merged with Hyundai HYSCO,[3] and requested that: (1) The Department conduct a CCR under 19 CFR 351.216(b) to determine that it is the successor-in-interest to Hyundai HYSCO for purposes of determining Hyundai Steel's antidumping duty cash deposits and liabilities; (2) the Department's successor-in-interest determination be effective as of July 1, 2015, the date on which the merger was completed; and (3) on an expedited basis under 19 CFR 351.221(c)(3)(ii).

On May 18, 2016,[4] the Department declined to initiate the CCR that Hyundai Steel requested in its February 24, 2016, CCR Request. The Department determined that it would not conduct a CCR of a final determination in an investigation less than 24 months after the publication of the final determination absent showing of good cause.[5] The Department further found that Hyundai Steel "did not reference or attempt to show good cause" in its February 24, 2016, request.[6] On May 31, 2016,[7] Hyundai Steel filed its second request for a CCR, in which it alleged that that good cause exists in this case and requested that the Department initiate a CCR.

We received no comments from any other interested party.

Scope of the Review

The merchandise covered by this review is certain oil country tubular goods (OCTG), which are hollow steel products of circular cross-section, including oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, regardless of end finish (*e.g.*, whether or not plain end, threaded, or threaded and coupled) whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished (including limited service OCTG products) or unfinished (including green tubes and limited service OCTG products), whether or not thread protectors are attached. The scope of the investigation also covers OCTG coupling stock. For a complete description of the scope of the investigation, *see* Appendix I to this notice.

Initiation and Preliminary Results

Pursuant to section 751(b)(1) of the Act, the Department will conduct a CCR upon receipt of a request from an interested party or receipt of information concerning an antidumping duty order which shows changed circumstances sufficient to warrant a review of the order.[8] In addition, because the final determination was published less than 24 months prior to the date on which Hyundai Steel submitted its request for a CCR (*i.e.*, May 31, 2016), and pursuant to section 351.216(c) of the Department's regulations, a CCR will not be initiated unless good cause exists. We find that good cause exists in the instant CCR request to initiate this CCR before the 24 month anniversary of the final determination, as demonstrated by Hyundai Steel.[9] Moreover, as noted above in the "Background" section, we have received information indicating that on July 1, 2015, Hyundai HYSCO merged with Hyundai Steel, with the latter assuming all operations for the production and sale of the subject merchandise.[10] This constitutes changed circumstances warranting a review of this order.[11]

---

[1] *See Certain Oil Country Tubular Goods From India, the Republic of Korea, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Antidumping Duty Orders; and Certain Oil Country Tubular Goods From the Socialist Republic of Vietnam: Amended Final Determination of Sales at Less Than Fair Value,* 74 FR 53691 (September 10, 2014).

[2] *See* the February 24, 2016, letter from Hyundai Steel, "Oil Country Tubular Goods from the Republic of Korea: Request for a Changed Circumstances Review," (CCR Request).

[3] Hyundai HYSCO was a respondent in the investigation of OCTG from Korea covering the period July 1, 2012–June 30, 2013. Hyundai HYSCO received a 15.75 percent dumping margin. *See Certain Oil Country Tubular Goods From the Republic of Korea: Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances,* 79 FR 41983 (July 18, 2014).

[4] *See* the Department's May 18, 2016, letter to Hyundai Steel.

[5] *See* the Department's May 18, 2016, letter to Hyundai Steel (the Department's Rejection Letter); 19 CFR 351.216(c); and section 751(b)(4) of the Act.

[6] *See* the CCR Request; and *also see* the Department's Rejection Letter.

[7] *See* the May 31, 2016, letter from Hyundai Steel to the Department.

[8] *See* 19 CFR 351.216(c); section 735(a) of the Act.

[9] *See* the May 31, 2016, letter from Hyundai Steel to the Department.

Section 351.221(c)(3)(ii) of the Department's regulations permits the Department to combine the notice of initiation of a CCR and the notice of preliminary results if the Department concludes that expedited action is warranted. In this instance, because we have on the record the information necessary to make a preliminary finding and no party has opposed expedited action, we find that expedited action is warranted, and have combined the notice of initiation and the notice of preliminary results.

In making a successor-in-interest determination, the Department examines several factors, including but not limited to, changes in: (1) Management; (2) production facilities; (3) supplier relationships; and (4) customer base.[12] While no single factor or combination of these factors will necessarily provide a dispositive indication of a successor-in-interest relationship, the Department will generally consider the new company to be the successor to the previous company if the new company's resulting operation is not materially dissimilar to that of its predecessor.[13] Thus, if the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the former company, the Department will accord the new company the same antidumping treatment as its predecessor.

In its CCR Request, Hyundai Steel explained that effective July 1, 2015, Hyundai HYSCO merged with Hyundai Steel,[14] with Hyundai Steel effectively absorbing Hyundai HYSCO. On April 28, 2015, the board of directors of Hyundai Steel and Hyundai HYSCO, both members of the Hyundai Motor Group, decided to merge the two companies. The absorption-type merger was conducted, through which Hyundai Steel became the surviving company.[15] Hyundai Steel claimed that since the merger took effect, it is operating essentially the same business as the former Hyundai HYSCO, and there has been no significant change in management, production facilities, supplier relationships, or customer base with respect to the production and sale of the subject merchandise.[16] Hyundai Steel submitted detailed documentation relating to the merger of the two companies (*e.g.*, major shareholders' lists, board of directors' lists, executives' lists, meeting minutes regarding the merger, business registration certificates, and a copy of the merger corporate registration and announcement of the merger).[17]

With respect to management, Hyundai Steel asserts that the management structure of the former Hyundai HYSCO has also remained largely unchanged. Hyundai Steel retained most of its board of directors. Mr. Heon-seok Lee, who was a board member and executive of Hyundai HYSCO, remained as an executive of Hyundai Steel.[18] In addition, Hyundai Steel states that of the 17 executives of Hyundai HYSCO, 12 have remained at Hyundai Steel after the merger, excluding only four non-executive directors. Nine out of the 12 executives that remained at Hyundai Steel have been assigned to departments and divisions within Hyundai Steel.[19]

Hyundai Steel further explained that its current organizational structure is substantially similar to that of Hyundai HYSCO. The only change to the organizational structure is that HYSCO's Business Management Division and Overseas Business Division in its Sales Division were divided and integrated into Hyundai Steel's Business Planning Department, Administrative Service Department, Accounting/Monetary Department, Sales Department and R&D Center, according to the function of each team. The other three divisions (*i.e.*, the Sales Division (excluding the Overseas Business sub-division), Pipe Plant, and Automotive Parts Plant) were simply transferred over to Hyundai Steel.[20] Moreover, Hyundai Steel claims that the merger did not affect the overall organizational structure in the production and sale of OCTG.[21]

Based on this information, and in particular, based on the fact that Hyundai Steel's management team continues to include the majority of the former HYSCO managers, we preliminarily find that the reorganization resulting from the merger of the two companies did not result in management that was materially dissimilar with respect to the subject merchandise.

With respect to production facilities, Hyundai Steel asserts that all of the production facilities for Hyundai HYSCO and Hyundai Steel have remained the same, after Hyundai Steel absorbed Hyundai HYSCO due to the merger.[22] Hyundai Steel provided copies of HYSCO's company brochure and a screenshot of Hyundai Steel's official Web site, which identifies the addresses and telephone numbers of the offices, production facilities, and branch offices of Hyundai HYSCO and Hyundai Steel.[23] Hyundai Steel contends that none of these locations have changed as a result of the merger, including the location of the production facility for OCTG and the Steel Pipe Plant located in Ulsan, South Korea. Based on this information, we preliminarily find that the merger did not result in material changes to the production of the subject merchandise.

With respect to suppliers and customers, all of the supplier relationships related to OCTG for Hyundai HYSCO and Hyundai Steel have remained the same. Specifically, Hyundai Steel states that is was Hyundai HYSCO's sole supplier of hot-rolled coil for OCTG production in June 2015.[24] After the merger, although the level of integration may have changed, the coil used in the production of OCTG continues to be supplied by Hyundai Steel.[25] Hyundai Steel contends that it has also maintained Hyundai HYSCO's OCTG customer base.[26] Hyundai Steel asserts that Hyundai HYSCO USA (HHU) was Hyundai HYSCO's sole U.S. customer in June 2015, while Hyundai Steel America (HSA) was Hyundai

---

[10] *See* the CCR request.

[11] *See* 19 CFR 351.216(d).

[12] *See, e.g., Preliminary Results of Antidumping Duty Changed Circumstances Review: Carbon and Certain Alloy Steel Wire Rod from Canada,* 71 FR 75229 (December 14, 2009) and unchanged in *Notice of Final Results of Antidumping Duty Changed Circumstances Review: Carbon and Certain Alloy Steel Wire Rod from Canada,* 72 FR 15102 (March 30, 2007) (*Carbon and Certain Alloy Steel from Canada*); *Certain Lined Paper Products From India: Preliminary Results of Changed Circumstances Review,* 79 FR 21897 (April 18, 2014) and unchanged in *Certain Lined Paper Products From India: Final Results of Changed Circumstances Review,* 79 FR 35726 (June 24, 2014).

[13] *See, e.g., Notice of Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review: Carbon and Certain Alloy Steel Wire Rod From Mexico,* 75 FR 67685 (November 3, 2010) and unchanged in *Final Results of Antidumping Duty Changed Circumstances Review: Carbon and Certain Alloy Steel Wire Rod From Mexico,* 76 FR 45509 (July 29, 2011); *Carbon and Certain Alloy Steel from Canada.*

[14] *See* the CCR Request.

[15] *Id.,* at 3.

[16] *Id.,* at 4.

[17] *Id.,* at 3 and Exhibits 1 through 8.

[18] *Id.,* at 8 and exhibit 2.

[19] *Id.,* at 8–9 and exhibit 3.

[20] *Id.,* at 7.

[21] *Id.,* at 7 and exhibit 9.

[22] *See, e.g., Carbon and Certain Alloy Steel from Canada.*

[23] *See* the CCR Request at 9 and exhibit 10.

[24] *Id.,* at 9 and exhibit 11.

[25] *Id.,* Hyundai Steel states that due to the time required to integrate the systems of the two companies, the internal systems relating to pipe products continued to operate separately after the merger while Hyundai Steel worked to merge the two systems into a single system. Therefore, during July 2015, Hyundai Steel is recognized in the system as the hot-rolled supplier.

[26] *See* the CCR Request at 9 and exhibit 12.

Steel's sole U.S. customer in July 2015.[27] Hyundai Steel asserts that its U.S. subsidiary, HSA, is the same company as Hyundai HYSCO's U.S. subsidiary, HHU, which was renamed pursuant to the merger.[28]

Based on the evidence reviewed, we preliminarily find that Hyundai Steel is the successor-in-interest to the merger of Hyundai Steel and Hyundai HYSCO. Specifically, we preliminarily find that the merger of these two companies resulted in no significant changes to management, production facilities, supplier relationships, and customers with respect to the production and sale of the subject merchandise. Thus, Hyundai Steel operates as the same business entity as Hyundai HYSCO with respect to the subject merchandise. If the Department upholds these preliminary results in the final results, Hyundai Steel will be entitled to the antidumping duty deposit rate currently assigned to Hyundai HYSCO with respect to the subject merchandise (*i.e.*, 15.75 percent). If these preliminary results are adopted in the final results of this CCR, we will instruct U.S. Customs and Border Protection to suspend liquidation of entries of OCTG made by Hyundai Steel, effective on the publication date of the final results.

Public Comment

Interested parties may submit case briefs and/or written comments not later than 14 days after the date of publication of this notice. Rebuttal briefs and rebuttals to written comments, which must be limited to issues raised in such briefs or comments, may be filed not later than 21 days after the date of publication of this notice. Parties who submit case or rebuttal briefs are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. All comments are to be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) available to registered users at *http://iaaccess.trade.gov* and in the Central Records Unit, Room B8024 of the main Department of Commerce building, and must also be served on interested parties.[29] An electronically filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time on the day it is due.[30]

Consistent with 19 CFR 351.216(e), we will issue the final results of this CCR no later than 270 days after the date on which this review was initiated, or within 45 days if all parties agree to our preliminary finding. We are issuing and publishing this finding and notice in accordance with sections 751(b)(1) and 777(i)(l) of the Act and 19 CFR 351.216.

Dated: July 8, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Review

The merchandise covered by the investigation is certain oil country tubular goods (OCTG), which are hollow steel products of circular cross-section, including oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, regardless of end finish (*e.g.*, whether or not plain end, threaded, or threaded and coupled) whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished (including limited service OCTG products) or unfinished (including green tubes and limited service OCTG products), whether or not thread protectors are attached. The scope of the investigation also covers OCTG coupling stock.

Excluded from the scope of the investigation are: Casing or tubing containing 10.5 percent or more by weight of chromium; drill pipe; unattached couplings; and unattached thread protectors.

The merchandise subject to the investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.31.10, 7304.29.31.20, 7304.29.31.30, 7304.29.31.40, 7304.29.31.50, 7304.29.31.60, 7304.29.31.80, 7304.29.41.10, 7304.29.41.20, 7304.29.41.30, 7304.29.41.40, 7304.29.41.50, 7304.29.41.60, 7304.29.41.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.61.15, 7304.29.61.30, 7304.29.61.45, 7304.29.61.60, 7304.29.61.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.29.10.30, 7306.29.10.90, 7306.29.20.00, 7306.29.31.00, 7306.29.41.00, 7306.29.60.10, 7306.29.60.50, 7306.29.81.10, and 7306.29.81.50.

The merchandise subject to the investigation may also enter under the following HTSUS item numbers: 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.39.00.36, 7304.39.00.40, 7304.39.00.44, 7304.39.00.48, 7304.39.00.52, 7304.39.00.56, 7304.39.00.62, 7304.39.00.68, 7304.39.00.72, 7304.39.00.76, 7304.39.00.80, 7304.59.60.00, 7304.59.80.15, 7304.59.80.20, 7304.59.80.25, 7304.59.80.30, 7304.59.80.35, 7304.59.80.40, 7304.59.80.45, 7304.59.80.50, 7304.59.80.55, 7304.59.80.60, 7304.59.80.65, 7304.59.80.70, 7304.59.80.80, 7305.31.40.00, 7305.31.60.90, 7306.30.50.55, 7306.30.50.90, 7306.50.50.50, and 7306.50.50.70.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

[FR Doc. 2016–16923 Filed 7–15–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free Trade Agreement (NAFTA), Article 1904; Notice of Completion of Panel Review

AGENCY: United States Section, NAFTA Secretariat, International Trade Administration, Department of Commerce.

ACTION: Notice of Completion of Panel Review of the United States International Trade Commission's final determination of Polyethylene Terephthalate Resin from Canada, Secretariat File No. USA–CDA–2016–1904–01.

SUMMARY: A Request for Panel Review was filed on behalf of Selenis Canada, Inc. with the United States Section of the NAFTA Secretariat for the International Trade Commission's final determination regarding Polyethylene Terephthalate Resin from Canada on June 6, 2016. Pursuant to Rule 39(1) of the to the *Article 1904 Panel Rules*, the interested person shall file a Complaint within 30 days after filing a Request for Panel Review. No Complaint was filed on July 6, 2016. Therefore, pursuant to Rule 71(3), the panel review is deemed terminated the day after the expiration of the limitation period established in Rule 39(1), effectively July 7, 2016.

FOR FURTHER INFORMATION CONTACT: Paul E. Morris, United States Secretary, NAFTA Secretariat, Room 2061, 1401 Constitution Avenue NW., Washington, DC 20230, (202) 482–5438.

Dated: July 12, 2016.

Paul E. Morris,

United States Secretary, NAFTA Secretariat.

[FR Doc. 2016–16844 Filed 7–15–16; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–810]

Welded ASTM A–312 Stainless Steel Pipe From the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2013–2014

AGENCY: Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce.

---

[27] *Id.*, at 9 and 10 and exhibit 12.

[28] *Id.*

[29] *See* 19 CFR 351.303(f).

[30] *See* 19 CFR 351.303(b).

SUMMARY: For the final results of the administrative review of the antidumping duty (AD) order on Welded ASTM A–312 Stainless Steel Pipe from the Republic of Korea (Korea), we find that SeAH Steel Corporation (SeAH) and LS Metal Co., Ltd. (LS Metal) made sales of subject merchandise at less than normal value. The period of review is December 1, 2013, through November 30, 2014.

DATES: Effective July 18, 2016.

FOR FURTHER INFORMATION CONTACT: Lingjun Wang, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2316.

SUPPLEMENTARY INFORMATION:

Background

On January 7, 2016, the Department of Commerce (Department) published in the **Federal Register** the preliminary results.[1] For a history of events that have occurred since the *Preliminary Results, see* the Issues and Decision Memorandum.[2] The Issues and Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at *http://trade.gov/login.aspx.* The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

We tolled the deadline for issuing final results by four business days to May 13, 2016,[3] to which we extended to July 11, 2016. The revised deadline for the final results of this review is now July 11, 2016.[4]

Scope of the Order

The merchandise subject to the antidumping duty order is welded austenitic stainless steel pipe that meets the standards and specifications set forth by the American Society for Testing and Materials (ASTM) for the welded form of chromium-nickel pipe designated ASTM A–312. The merchandise covered by the scope of the orders also includes austenitic welded stainless steel pipes made according to the standards of other nations which are comparable to ASTM A–312.

Imports of welded ASTM A–312 stainless steel pipe are currently classifiable under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 7306.40.5005, 7306.40.5015, 7306.40.5040, 7306.40.5062, 7306.40.5064, and 7306.40.5085. Although these subheadings include both pipes and tubes, the scope of the antidumping duty order is limited to welded austenitic stainless steel pipes. The HTSUS subheadings are provided for convenience and customs purposes. However, the written description of the scope of the orders is dispositive.[5]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs are addressed in the Issues and Decision Memorandum. A list of issues raised and to which we responded in the Issues and Decision Memorandum is attached to this notice as an Appendix.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results,* we have made a change to SeAH's margin calculation.[6]

Final Results of Review

As a result of our review, we determine the following weighted-average dumping margins exist for the period December 1, 2013, through November 30, 2014.

Producer or exporter	Weighted-average dumping margin
SeAH Steel Corporation	2.58
LS Metal Co., Ltd	31.70

Disclosure

We intend to disclose the calculation performed in connection with these final results within five days of the publication date of this notice pursuant to 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(1), the Department determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise, in accordance with the final results of this review. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review. We will instruct CBP to liquidate entries of merchandise produced and/or exported by the aforementioned companies. The Department will calculate importer-specific assessment rates for SeAH. Where the respondent reported the entered value for its sales, the Department calculates importer-specific *ad valorem* assessment rates based on the ratio of the total amount of dumping calculated for the examined sales to the total entered value of those same sales.[7] However, where the respondent did not report the entered value for its sales, the Department calculates importer-specific per-unit duty assessment rates. We will instruct CBP to apply an *ad valorem* assessment rate as indicated above to all entries of subject merchandise during the POR which were produced and/or exported by LS Metal and the all other companies.

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of Welded ASTM A–312 Stainless Steel Pipe from Korea entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for the company under review will be equal to the weighted-average dumping margin established in the final results of this review (except, if the rate is *de minimis, i.e.,* less than 0.5 percent, then the cash deposit rate will be zero); (2) for

---

[1] *See Welded ASTM A–312 Stainless Steel Pipe from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2013–2014,* 81 FR 742 (January 7, 2016) (*Preliminary Results*).

[2] *See* "Issues and Decision Memorandum for the Final Results of Antidumping Duty Administrative Review: Welded ASTM A–312 Stainless Steel Pipe from the Republic of Korea; 2013–2014" (Issues and Decision Memorandum), dated concurrently with and hereby adopted by this notice.

[3] As explained in the memorandum from the Acting Assistant Secretary for Enforcement & Compliance, the Department has exercised its discretion to toll all administrative deadlines due to the recent closure of the Federal Government. *See* Memorandum to the Record from Ron Lorentzen, Acting A/S for Enforcement & Compliance, regarding "Tolling of Administrative Deadlines as a Result of the Government Closure During Snowstorm Jonas," dated January 27, 2016. All deadlines in this segment of the proceeding have been extended by four business days.

[4] *See* the Department's April 27, 2016 and July 1, 2016 memorandums.

[5] *See* Issues and Decision Memorandum for a full description of the scope of order.

[6] *See* Issues and Decision Memorandum at Comment 3, and "Calculation for the Final Results of SeAH Steel Corporation in the Antidumping Duty Administrative Review of Welded ASTM A–312 Stainless Steel Pipe from the Republic of Korea" (Final Calculation Memorandum).

[7] *See* 19 CFR 351.212(b).

previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published in the completed segment for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value investigation (LTFV), but the manufacturer is, the cash deposit rate will be the rate established in the completed segment for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any other completed segment of this proceeding, then the cash deposit rate will continue to be 7.00 pecent, the "all others" rate made effective by the LTFV investigation.[8] These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notifications to Interested Parties

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

The Department is issuing and publishing these final results of administrative review in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: July 11, 2016.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

Summary
Background
Scope of the Order
Affiliation Based on Close Supplier Relationship
Use of Adverse Facts Available
Changes Since the *Preliminary Results*
Discussion of the Issues
1. Alignment of Product Characteristics—End Finish to Those From Recent Investigations
2. Applicability of Cost of Production Methodology From *Line Pipe*[9]
3. Applicability U.S. Indirect Selling Expenses Methodology From *Line Pipe*[10]
4. Differential Pricing Analysis Is Not Consistent With the Requirements of the Statute or With Basic Principles of Statistical Analysis

[FR Doc. 2016–16945 Filed 7–15–16; 8:45 am]

BILLING CODE 3510–DS–P

---

[8] *See Notice of Amended Final Determination and Antidumping Duty Order: Certain Welded Stainless Steel Pipe From the Republic of Korea,* 60 FR 10064 (February 23, 1995).

[9] *See Welded Line Pipe from the Republic of Korea: Final Determination of Sales at Less Than Fair Value,* 80 FR 61366 (October 13, 2015) (*Line Pipe*) and accompanying Issues and Decision Memorandum (IDM) at Comment 5.

[10] *Id.* at Comment 20.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE740

Western Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold its 167th meeting by teleconference and webinar to discuss and make recommendations on fishery management issues in the Western Pacific Region.

DATES: The Council will meet on August 3, 2016, between 1 p.m. and 3 p.m. (Hawaii Standard Time (HST)); 12 noon and 2 p.m. (American Samoa Standard Time (ASST)); and August 4, 2016, between 9 a.m. and 11 a.m. (Marianas Standard Time (MST)). All times listed are local island times.

ADDRESSES: The meeting will be held by teleconference and webinar. The following venues will also be host sites for the teleconference: Council Conference Room, 1164 Bishop Street, Suite 1400, Honolulu, HI; Land Grant Conference Room, American Samoa Community College, Agriculture, Community and Natural Resources, Mapusaga Road, Malaeimi Village, American Samoa; Guam Hilton Resort and SPA, 202 Hilton Road, Tumon Bay, Guam; Department of Land and Natural Resources Conference Room, Santa Remedio Drive, Lower Base, Saipan, MP. For specific time and agenda, see **SUPPLEMENTARY INFORMATION.**

The teleconference will be conducted by telephone and by web. The teleconference numbers are: U.S. toll-free: 1 (888) 482–3560 or International Access: +1 (647) 723–3959, and Access Code: 5228220; The webinar can be accessed at: *https://wprfmc.webex.com/join/info.wpcouncilnoaa.gov.*

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: Public comment periods will be provided throughout the agenda. The order in which agenda items are addressed may change. The meetings will run as late as necessary to complete scheduled business. Written comments must be received by July 29, 2016. Oral testimony may be provided during designated periods during the meeting at the host sites or by teleconference. Background documents will be available from, and written comments should be sent to, Kitty M. Simonds, Executive Director; Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1400, Honolulu, HI 96813, phone: (808) 522–8220 or fax: (808) 522–8226.

Schedule and Agenda for the 167th Council Meeting

1 p.m.–3 p.m., Wednesday, August 3, 2016 (HST); 12 noon–2 p.m., Wednesday, August 3, 2016 (ASST); 9 a.m.–11 a.m., Thursday, August 4, 2016 (MST).

1. Welcome and Introductions
2. Review and Approval of the 167th Agenda
3. Expansion of the Papahanaumokuakea Marine National Monument
    a. Report on status of the potential President proposal
    b. Report on Council actions and activities
    c. Public Comment
    d. Discussion and recommendations
4. U.S. Territory Bigeye Tuna Limit Options
5. Council Family Changes
    a. Scientific and Statistical Committee Member Appointments
    b. Advisory Panel Changes
6. International Union for Conservation of Nature Resolutions
7. Public Comment
8. Other Business
9. Council Discussion and Recommendations

Non-Emergency issues not contained in this agenda may come before the

Council for discussion and formal Council action during its 167th meeting. However, Council action on regulatory issues will be restricted to those issues specifically listed in this document and any regulatory issue arising after publication of this document that requires emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

The host sites are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 13, 2016.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries National Marine Fisheries Service.

[FR Doc. 2016–16914 Filed 7–15–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE738

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its *Recreational* Advisory Panel to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Tuesday, August 2, 2016 at 10 a.m.

ADDRESSES: The meeting will be held at the DoubleTree by Hilton, 363 Maine Mall Road, South Portland, ME 04106; phone: (207) 775–6161; fax: (207) 756–6622.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Advisory Panel will receive an overview of the Council staff white paper on the recreational management measures process. They will also develop recommendations to the Groundfish Committee regarding improving the recreational management measures process. They panel will also receive an overview of the Marine Recreational Information Program (MRIP) by NOAA staff. The panel also plans to discuss recommendations to the Groundfish Committee regarding 2017 Council priorities. Other business will be discussed as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 13, 2016.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–16910 Filed 7–15–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: NOAA Teacher At Sea Program.

OMB Control Number: 0648–0283.

Form Number(s): None.

Type of Request: Regular (extension of a currently approved information collection).

Number of Respondents: 1,125.

Average Hours per Response: 45 minutes to read and complete application, 15 minutes to complete a Health Services Questionnaire, 15 minutes to deliver and discuss recommendation forms to persons from whom recommendations are being requested, 15 minutes for those persons to complete a recommendation form, and 2 hours for a follow-up report.

Burden Hours: 758.

Needs and Uses: This request is for extension of a currently approved collection.

NOAA provides educators an opportunity to gain first-hand experience with field research activities through the NOAA Teacher at Sea Program. Through this program, educators spend up to 4 weeks at sea on a NOAA research vessel, participating in an on-going research project with NOAA scientists. The application solicits information from interested educators: Basic personal information, teaching experience and ideas for applying program experience in their classrooms, plus two recommendations and a NOAA Health Services Questionnaire required of anyone selected to participate in the program. Once educators are selected and participate on a cruise, they write a report detailing the events of the cruise and ideas for classroom activities based on what they learned while at sea. These materials are then made available to other educators so they may benefit from the experience, without actually going to sea themselves. NOAA does not collect information from this universe of respondents for any other purpose.

Affected Public: Individuals or households.

Frequency: One time for applicants and those providing recommendations; for participants, a total of three times in one year.

Respondent's Obligation: Required to obtain or retain benefits.

This information collection request may be viewed at *reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: July 13, 2016.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2016–16903 Filed 7–15–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE735

Pacific Fishery Management Council; Webinar

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of webinar.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council's) Scientific and Statistical Committee (SSC) will hold a webinar to approve new overfishing limit (OFL) estimates for Pacific ocean perch and to discuss plans for two upcoming workshops. The webinar is open to the public.

DATES: The SSC webinar will commence at 2 p.m. PST, Tuesday, August 2, 2016 and continue until 4 p.m. or as necessary to complete business for the day.

ADDRESSES: To attend the SSC webinar, please join online at *http://www.gotomeeting.com/online/webinar/join-webinar* and enter the webinar ID: 120–344–715, as well as your name and email address. After logging in to the webinar, please call the toll number 1 (562) 247–8321 and enter 348–717–205 when prompted for the audio access code. Participants are encouraged to use their telephone, as this is the best practice to avoid technical issues and excessive feedback. (See the PFMC GoToMeeting Audio Diagram for best practices). A public listening station will also be provided at the Council office.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384; telephone: 503–820–2280.

FOR FURTHER INFORMATION CONTACT: Mr. John DeVore, Pacific Council; telephone: (503) 820–2280.

SUPPLEMENTARY INFORMATION: The specific objectives of the SSC webinar are to approve new OFL estimates for Pacific ocean perch for use in establishing 2017–18 specifications and management measures, and to advance plans for two upcoming workshops (historical catch reconstruction workshop and a stock productivity workshop) sponsored by the Pacific Council and NMFS. Public comments during the webinar will be received from attendees at the discretion of the SSC chair.

Although non-emergency issues not identified in the webinar agenda may come before the webinar participants for discussion, those issues may not be the subject of formal action during this webinar. Formal action at the webinar will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the webinar participants' intent to take final action to address the emergency.

Technical Information and System Requirements

PC-based attendees: Required: Windows® 7, Vista, or XP. Mac®-based attendees: Required: Mac OS® X 10.5 or newer. Mobile attendees: Required: iPhone®, iPad®, Android™ phone or Android tablet GoToMeeting Webinar Apps). You may send an email to Mr. Kris Kleinschmidt or contact him at (503) 820–2280, extension 425 for technical assistance.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for auxiliary aids should be directed to Mr. Kris Kleinschmidt at (503) 820–2425 at least 5 days prior to the webinar date.

Dated: July 13, 2016.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–16909 Filed 7–15–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE737

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will hold a joint meeting of its Shrimp Advisory Panel (AP), Coral Advisory Panel, and Coral Statistical and Scientific Committee (SSC).

DATES: The meeting will convene Wednesday, August 3, 2016, from 8 a.m. to 5 p.m. and Thursday, August 4, 2016, from 8 a.m. to 12 p.m. (EDT)

ADDRESSES: The meeting will take place at the Council's office.

Council address: Gulf of Mexico Fishery Management Council, 2203 N. Lois Avenue, Suite 1100, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Dr. Morgan Kilgour, Fishery Biologist, Gulf of Mexico Fishery Management Council; *morgan.kilgour@gulfcouncil.org;* telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION: The items of discussion on the agenda are as follows:

The Shrimp AP, Coral AP and Coral SSC will meet jointly to review the coral data portal; discuss the proposed Flower Garden Banks National Marine Sanctuary and the Florida Keys National Marine Sanctuary expansions; discuss potential Habitat Areas of Particular Concern (HAPC) in the Gulf of Mexico; and provide recommendations to the Council for the August 2016 Council meeting.

—Meeting Adjourns—

The Agenda is subject to change, and the latest version along with other meeting materials will be posted on the Council's file server. To access the file server, the URL is *https://public.gulfcouncil.org:5001/webman/index.cgi,* or go to the Council's Web site and click on the File Server link in the lower left of the Council Web site (*http://www.gulfcouncil.org*). The username and password are both "gulfguest". Click on the "Library Folder", then scroll down to "Joint Shrimp AP and Coral AP/SSC".

The meeting will be webcast over the internet. A link to the webcast will be available on the Council's Web site, *http://www.gulfcouncil.org.*

Although other non-emergency issues not on the agenda may come before the Committees for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions of the Committees will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira at the Gulf Council Office (see **ADDRESSES**), at least 5 working days prior to the meeting.

Dated: July 13, 2016.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–16915 Filed 7–15–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE739

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Groundfish Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Wednesday, August 3, 2016 at 9 a.m.

ADDRESSES:

Meeting address: The meeting will be held at the DoubleTree by Hilton, 363 Maine Mall Road, South Portland, ME 04106; phone: (207) 775–6161; fax: (207) 756–6622.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The committee will receive a summary of the recommendations from the Recreational Advisory Panel meeting on August 2. The panel will discuss specifications and management measures of Framework Adjustment 56 as well as (1) receive an overview of the Council staff white paper on the recreational management measures process, (2) develop recommendations to the Council regarding improving the recreational management measures process, (3) receive a Plan Development Team (PDT) report that summarizes Atlantic halibut management and recent catch and effort for the directed fishery in the State of Maine, and (4) discuss draft alternatives and make recommendations to the Council. They will also receive a progress report from the PDT on the white paper on monitoring strategies, and develop recommendations to the Council. Other business will be discussed as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 13, 2016.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–16913 Filed 7–15–16; 8:45 am]

BILLING CODE 3510–22–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

Supervisory Highlights: Summer 2016

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Supervisory Highlights; notice.

SUMMARY: The Bureau of Consumer Financial Protection (CFPB) is issuing its twelfth edition of its Supervisory Highlights. In this issue of *Supervisory Highlights,* we report examination findings in the areas of auto originations, debt collection, mortgage origination, small-dollar lending, and fair lending. As in past editions, this report includes information about a recent public enforcement action that was a result, at least in part, of our supervisory work. The report also includes information on our coordination with state and federal regulators on supervisory matters, as well as information on recently released guidance.

DATES: The Bureau released this edition of the Supervisory Highlights on its Web site on June 30, 2016.

FOR FURTHER INFORMATION CONTACT: Adetola Adenuga, Consumer Financial Protection Analyst, Office of Supervision Policy, 1700 G Street NW., 20552, (202) 435–9373.

SUPPLEMENTARY INFORMATION:

1. Introduction

As the Consumer Financial Protection Bureau (CFPB or Bureau) enters its fifth year, it continues to examine bank and nonbank providers of consumer financial products and services under the Bureau's jurisdiction.[1] In this twelfth edition of *Supervisory Highlights,* the CFPB shares recent supervisory observations in the areas of auto origination, debt collection, mortgage origination, small-dollar lending and fair lending. The findings reported here reflect information obtained from supervisory activities completed during the period under review. In some instances, not all corrective actions, including through enforcement, have been completed at the time of this report's publication.

The CFPB's supervisory activities have either led to or supported a recent public enforcement action, requiring nearly $5 million in consumer remediation and an additional $3 million in civil money penalties.[2] In addition to these public enforcement actions, Supervision continues to resolve violations using non-public supervisory actions. When Supervision examinations determine that a supervised entity has violated a statute or regulation, Supervision directs the entity to implement appropriate corrective measures, including remediation of consumer harm when appropriate.

---

[1] The CFPB supervises depository institutions and credit unions with total assets of more than $10 billion, and their affiliates. In addition, the CFPB has authority under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) to supervise nonbanks, regardless of size, in certain specific markets: Mortgage companies (originators, brokers, servicers, and providers of loan modification or foreclosure relief services); payday lenders; and private education lenders.

The CFPB may also supervise "larger participants" in other nonbank markets as the CFPB defines by rule. To date, the CFPB has issued five rules defining larger participants in the following markets: Consumer reporting (effective September 2012), consumer debt collection (effective January 2013), student loan servicing (effective March 2014), international money transfers (effective December 2014) and automobile financing (effective August 2015).

[2] The CFPB Office of Enforcement also brought other actions unrelated to supervisory activities.

Recent supervisory resolutions resulted in restitution[3] of approximately $24.5 million to more than 257,000 consumers. Other corrective actions included, for example, developing improved policies and procedures, building enhanced monitoring systems to ensure compliance, and improving training for employees.

This report highlights supervision work generally completed between January 2016 and April 2016 (unless otherwise stated), though some completion dates may vary. Any questions or comments from supervised entities can be directed to *CFPB_Supervision@cfpb.gov.*

2. Supervisory Observations

Below are some of Supervision's recent examination observations in automobile origination, debt collection, mortgage origination, small-dollar lending and fair lending.

2.1 Automobile Origination

The Dodd-Frank Act[4] gave the CFPB supervisory authority over "larger participants" of certain markets for consumer financial products or services as the Bureau defines by rulemaking. In June 2015, the CFPB finalized its automobile finance market larger participant regulation.[5] In this market, automobile loans can be made through direct or indirect lending channels. For direct lending, consumers go directly to a bank, credit union, or other lender and apply for and obtain a loan. Consumers will commonly get an interest rate quote or a conditional commitment letter from the bank or credit union before going to the dealership to buy an automobile. In indirect lending, also called dealer-arranged financing, consumers obtain auto financing from a lender through a dealership.

The CFPB conducted examinations focused on assessing compliance management systems (CMS) and automobile financing practices to determine whether entities are complying with applicable Federal consumer financial laws.

2.1.1 Deceptive Practice in Advertising Add-On Gap Coverage Products and Disclosure of Payment Deferral Terms

Examiners determined that one or more auto lenders deceptively advertised the benefits of their gap coverage products, leaving the impression that these products would fully cover the remaining balance of a consumer's loan in the event of vehicle loss.[6] In fact, the product only covered amounts below a certain loan to value ratio. Bureau examiners further found that one or more auto lenders engaged in a deceptive practice by using a telephone script that created the false overall net impression that the only effects of taking advantage of a loan deferral would be to extend the maturity of the loan and to accrue interest during the deferral, but omitted informing consumers that the subsequent payment would be applied to the interest earned on the unpaid amount financed from the date of the last payment received from the consumer. This way of applying the payment could result in the consumer paying more finance charges than originally disclosed. These violations are under review by the Bureau to determine what, if any, remedial and corrective actions should be undertaken by the relevant financial institutions.

2.1.2 CMS Deficiencies

At one or more institutions, examiners determined that an overall weak CMS allowed violations of Federal consumer financial law during the review period. Weaknesses included the failure to raise compliance-related issues to the institution's board of directors or other principal (Board); failure to follow institution's policies and procedures in daily practices; failure to properly monitor and correct business line practices to align with Federal consumer financial law; failure to adequately track training completed by employees and the Board; and failure to adequately follow up on consumer complaints with a corresponding failure of compliance audit to highlight deficiencies in the consumer complaint response process. The relevant financial institutions have undertaken remedial and corrective actions regarding these violations, which are under review by the Bureau.

2.2 Debt Collection

The Supervision program covers certain bank and nonbank creditors who originate and collect their own debt, as well as the larger nonbank third-party debt collectors. During recent examinations, examiners identified an unfair practice and violations of the Fair Debt Collection Practices Act (FDCPA).[7]

2.2.1 Miscoding of Accounts Unsuitable for Sale by Debt Sellers

During one or more examinations, examiners determined that debt sellers, as a result of widespread coding errors, sold thousands of debts that did not properly reflect that: (1) The accounts were in bankruptcy, (2) the debt sellers had concluded the debts were products of fraud, or (3) the accounts had been settled in full. The relevant accounts sold were in, or likely to be subject to, collections. Supervision concluded that this practice was unfair.[8]

In some cases, coding failed to reflect a pending bankruptcy proceeding when the debt seller had received notice that the consumer had filed for bankruptcy. In other instances, one or more debt sellers either failed to code accounts to indicate that a fraud claim was pending or failed to code accounts to indicate that fraud had occurred. In other cases, one or more debt sellers failed to include codes indicating that the debt seller(s) had settled the relevant accounts in full. These errors caused or were likely to cause substantial injury in the form of subjecting consumers to debt collection efforts either: (1) Prohibited by the automatic stay provisions of the Bankruptcy Code,[9] or (2) on debts for which the consumer was not responsible because the relevant accounts were impacted by fraud or were settled in full. Supervision directed one or more debt sellers to redress consumers impacted by each category of the three coding errors and to enhance service provider oversight to include critical vendors performing collections and processes relating to debt sale arrangements, such as suppliers providing coding services.

2.2.2 Use of Misleading Statements Regarding Repayment Options

Section 807(10) of the FDCPA prohibits a debt collector from using any false representation or deceptive means to collect any debt.[10] Examiners determined that one or more collectors falsely represented to consumers that a down payment was necessary in order to establish a repayment arrangement, when the collectors' policies and procedures included no such requirement. In other cases, one or more collectors falsely represented that the only option for repayment was using a checking account, when the debt collectors' policies and procedures did not limit repayment to checking accounts. Supervision directed one or more debt collectors to analyze their process to determine why the collectors made false representations to consumers regarding payment options and based on such analysis, to determine the appropriate corrective action to ensure future compliance.

---

[3] The term "restitution" as used in this report refers specifically to monetary relief (or redress) to consumers, whereas remediation includes both monetary and non-monetary forms of relief.

[4] 12 U.S.C. 5514(a)(1)(B).

[5] 12 CFR 1090.108.

[6] An act or practice is deceptive when there is a material representation, omission, act or practice that misleads or is likely to mislead the consumer and the consumer has a reasonable interpretation of the representation, omission, act or practice. 12 U.S.C. 5536(a)(1)(B) prohibits deceptive acts or practices.

[7] 15 U.S.C. 1692–1692p.

[8] 12 U.S.C. 5531(c); 5536(a)(1)(B).

[9] 11 U.S.C. 362.

[10] 15 U.S.C. 1692e(10).

2.3 *Mortgage Origination*

During the review period covered by this report, several mortgage origination examinations focused upon reviewing compliance with provisions of CFPB's Title XIV rules,[11] existing Truth in Lending Act (TILA) and Real Estate Settlement Procedures Act (RESPA)[12] disclosure provisions,[13] and other applicable Federal consumer financial laws. Examiners also evaluated entities' CMS. Examiners found general compliance with the reviewed Federal consumer financial laws, though many entities continue to have CMS deficiencies.

2.3.1 Incorrect Calculation of the Amount Financed on Loans With Discount Credits

Regulation Z requires the amount financed to be calculated by determining the principal loan amount or the cash price (minus any down payment), adding any other amounts that are financed by the creditor and that are not part of the finance charge, and subtracting any prepaid finance charge.[14] Regulation Z also provides that finance charges disclosed are treated as accurate if they are understated by no more than $100 or are greater than the amount required to be disclosed.[15] One or more institutions incorrectly calculated the amount financed on loans with discount credits, and subsequently incorrectly calculated the finance charge on the same loans. The calculation method used to determine the amount financed for these loans resulted in a negative finance charge and an amount financed that exceeded the stated loan amount, resulting in a violation of Regulation Z. Supervision directed that the practice cease and that training and revised policies and procedures be provided to ensure that disclosures were calculated accurately.

2.3.2 Failure To Comply With RESPA Section 8

RESPA Section 8 and its implementing Regulation X generally prohibit the acceptance of any fee, kickback or other thing of value in exchange for a referral.[16] An affiliated business arrangement (ABA) is permitted so long as it meets the requirements of RESPA by not offering anything of value in exchange for a referral.[17] Bureau examiners found that one or more institutions had ABAs that did not fully meet the requirements of a compliant ABA under RESPA. One or more institutions provided a referral and required the use of an affiliated provider of flood determination and tax services, a settlement service that is not among the prescribed settlement services (attorney, credit reporting agency or real estate appraiser chosen by the lender) that may be required by a lender who makes a referral and has a compliant ABA.[18] The majority of consumers who received the incorrect ABA disclosure did not pay the fees charged by the affiliated service provider as these fees were lender paid. Supervision directed the institutions to revise the affiliated business disclosures to avoid improper referrals.

2.3.3 Failure To Provide Fair Credit Reporting Act Adverse Action Notices

Section 615(a) of the Fair Credit Reporting Act (FCRA)[19] requires that if any person takes any adverse action with respect to any consumer that is based on information contained in a consumer report, the person must provide the consumer with notice of the adverse action (*e.g.*, a denial of credit) including: (1) The name, address, and telephone number of the consumer reporting agency that furnished the report to the person; (2) a statement that the consumer reporting agency did not make the decision to take the adverse action; (3) the consumer's right to obtain a free copy of a consumer report from that consumer reporting agency; and (4) the consumer's right to dispute with the furnishing consumer reporting agency the accuracy or completeness of information contained the consumer report.[20] One or more institutions took adverse action based on information in consumer reports[21] but failed to make the required disclosures. Examiners found these actions to be violations caused by a lack of both appropriate training and adequate policies and procedures. Supervision directed the institutions to revise their training and policies and procedures mechanisms to ensure that employees provide FCRA-required information on adverse action notices.

2.3.4 Failure To Properly Disclose Interest on Interest-Only Loans

Regulation Z requires that creditors disclose interest-only loan payment amounts that will be applied to interest and principal. These amounts must be itemized and labeled as "interest payment" and "principal payment."[22] One or more institutions offering interest-only bridge loans[23] failed to accurately disclose the interest payment because it erroneously included a portion of the monthly payment amount that was to be applied to fees financed into the principal balance. This failure, due to a software error to separately itemize and properly disclose the correct interest and principal payment, violated Regulation Z. Supervision directed the institutions to examine and assess whether the monthly payment amounts of the affected loans were correctly applied to accrued interest and the principal amount. Institutions were also directed to ensure that the final balloon payment was assessed in accordance with the mortgage note.

2.3.5 CMS Deficiencies

At one or more institutions, examiners concluded that a weak CMS allowed violations of Regulations V, X, and Z to occur. For example, one or more supervised institutions had weak oversight of automated systems, including inadequate testing of codes that calculate the finance charge and the amount financed when originating residential loans to consumers. In addition, one or more supervised entities failed to monitor for changes that would require updated disclosures to comply with applicable Federal consumer financial laws.

---

[11] These Title XIV rules include the Loan Originator Rule (12 CFR 1026.36), the Ability to Repay Rule (12 CFR 1026.43), and rules reflecting amendments to the Equal Credit Opportunity Act and Truth in Lending Act regarding appraisals and valuations (12 CFR 1002.14 and 12 CFR 1026.35).

[12] TILA is implemented by Regulation Z and RESPA by Regulation X.

[13] These mortgage origination examination findings cover a period preceding the effective date of the Know Before You Owe Integrated Disclosure Rule. The disclosures reviewed in these exams are the Good Faith Estimate (GFE), the Truth in Lending disclosure, and the HUD–1 form.

[14] 12 CFR 1026.18(b).

[15] 12 CFR 1026.18(d)(1).

[16] 12 U.S.C. 2607(a); 12 CFR 1024.14(b).

[17] 12 U.S.C. 2607(c)(4); 12 CFR 1024.15.

[18] 12 CFR 1024.15(b)(2).

[19] 15 U.S.C. 1681m(a).

[20] 15 U.S.C. 1681m(a)(3)–(4). If a numerical credit score is used in taking the adverse action, the credit score and other score-related information is also required. *See* 15 U.S.C. 1681m(a)(2).

[21] The credit score was not a factor in these decisions.

[22] 12 CFR 1026.18(s)(3)(ii)(B).

[23] A bridge loan is a short term loan with a term of 12 months or less, such as a loan to finance the purchase of a new dwelling, or connected with the acquisition or construction of a dwelling intended to become the consumer's principal dwelling. *See* 12 CFR 1026.32(d)(1)(ii)(B), 1026.35(b)(2)(i)(C) and 1026.43(a)(3)(ii).

To address the above findings, Supervision directed entities to enhance their monitoring and corrective action and compliance audit practices prior to using revised disclosures, and to revise training, policies and procedures, monitoring and corrective action, and compliance audit practices to ensure that adverse action notices were properly completed. After Supervision notified the entities' management of these findings, the entities took corrective action to improve their CMS.

2.4 *Small-Dollar Lending*

The Dodd-Frank Act gave the CFPB supervisory and enforcement authority over payday lenders, who generally provide small-dollar loans directly to consumers. Since launching its payday lending supervisory program in January 2012, the Bureau has conducted multiple examinations for compliance with Federal consumer laws. During the review period, examiners evaluated lenders' compliance with Regulation E,[24] which implements the Electronic Fund Transfer Act.[25] Among other things, these reviews assessed compliance with requirements related to preauthorized electronic fund transfers (EFTs).

Regulation E provides that when the amount of a preauthorized EFT differs from the preceding EFT, the designated payee must provide notice in advance of the transfer. It also provides an optional, alternative approach whereby the payee may give the consumer the option of receiving notice only when the amount of a payment either falls outside a specified range, or only when the transfer differs from the most recent transfer by more than the agreed upon amount. The Rule commentary provides that the specified range must be one that could be anticipated by the consumer.

Examiners found that the installment loan agreements of one or more entities failed to set out an acceptable range of amounts to be debited, in lieu of providing individual notice of transfers of varying amounts. These ranges could not be anticipated by the consumer because they contained ambiguous or undefined terms in their descriptions of the upper and lower limits of the range. When examiners found such violations, Supervision directed that entities take the following steps:

For new loans, revise loan agreements to specify a range of amounts that consumers can reasonably anticipate if the firms elect to continue to give the consumer the option of receiving notice of a range of transfers instead of providing advance notice of each preauthorized EFT that varies in amount.

For existing loans not governed by a revised agreement, notify borrowers of the amount of any new transfer that will vary from the amount of the previous transfer or from the preauthorized amount before initiating the new transfer.

2.5 *Fair Lending*

2.5.1 Reporting Actions Taken for Conditionally-Approved Applications With Unmet Underwriting Conditions

Compliance with the Home Mortgage Disclosure Act (HMDA) and Regulation C remains a top priority in the Bureau's fair lending examinations.[26] Among other things, Regulation C requires covered depository and non-depository institutions to submit to the appropriate Federal agency data they collect and record pursuant to Regulation C, including the type of action taken on reportable transactions.[27] Financial institutions use the codes listed in Appendix A of Regulation C when reporting the type of action taken on an application or loan.[28] Under Regulation C, when an institution issues a loan approval subject to the applicant's meeting underwriting conditions and the application does not result in an origination, the reported "action taken" code varies according to the following circumstances:[29]

If the institution sent the applicant a written notice of incompleteness pursuant to Regulation B,[30] and the applicant responded to the request for additional information within the period of time specified in the notice but the applicant did not meet the underwriting conditions, then the action taken is reported as "Application denied" (Code 3).[31]

If the institution sent the applicant a written notice of incompleteness pursuant to Regulation B, and the applicant did not respond to the request for additional information within the period of time specified in the notice, then the action taken is reported as "File closed for incompleteness" (Code 5).[32]

If the institution did not send the applicant a written notice of incompleteness pursuant to Regulation B, and the applicant did not meet the underwriting conditions, then the action taken is reported as "Application denied" (Code 3).[33]

If the applicant expressly withdrew the application before a credit decision was made, then the action taken is reported as "Application withdrawn" (Code 4).[34]

During one or more HMDA data integrity reviews conducted substantially within the last year, examiners found that after issuing a conditional approval subject to underwriting conditions, the institutions did not accurately report the action taken on the loans or applications. For example, examiners found where one or more institutions issued a conditional approval subject to the applicants meeting underwriting conditions, and then the applicants withdrew their applications before the institutions made a credit decision, the institutions incorrectly coded the action taken as "Application denied" (Code 3) or "File closed for incompleteness" (Code 5) instead of "Application withdrawn" (Code 4). In other instances, examiners found that one or more institutions incorrectly coded the action taken as "Application approved but not accepted" (Code 2) instead of "Application denied" (Code 3) after the applicants failed to respond to a conditional approval subject to the applicants meeting underwriting conditions, and did not send the applicants either a written notice of incompleteness or an adverse action notice as required by Regulation B.[35]

---

[24] 12 CFR part 1005.

[25] 15 U.S.C. 1693 *et seq.*

[26] *See* CFPB Bulletin 2013–11, *Home Mortgage Disclosure Act (HMDA) and Regulation C—Compliance Management; CFPB HMDA Resubmission Schedule and Guidelines; and HMDA Enforcement, available at http://files.consumerfinance.gov/f/201310_cfpb_hmda_compliance-bulletin_fair-lending.pdf.*

[27] 12 CFR 1003.4(a), (a)(8); 12 CFR 1003.5(a)(1).

[28] *See* 12 CFR 1003, app. A, I.B.

[29] Underwriting conditions here do not include "customary loan commitment or loan-closing conditions, such as a clear-title requirement or an acceptable property survey." 12 CFR part 1003, Supp. I, 1003.4, comment 4(a)(8)–4.

[30] *See* 12 CFR 1002.9(c)(2).

[31] *See* 12 CFR part 1003, Supp. I, 1003.4, comment 4(a)(8)–4 (financial institutions report Code 3, "Application denied," "[i]f an institution issues a loan approval subject to the applicant's meeting underwriting conditions (other than customary loan commitment or loan-closing conditions, such as a clear-title requirement or an acceptable property survey) and the applicant does not meet them").

[32] 12 CFR 1003 app. A, I.B.1.e ("Use Code 5 if you sent a written notice of incompleteness under 1002.9(c)(2) of Regulation B (Equal Credit Opportunity) and the applicant did not respond to your request for additional information within the period of time specified in your notice.").

[33] *See* 12 CFR part 1003, Supp. I, 1003.4, comment 4(a)(8)–4.

[34] 12 CFR 1003, app. A, I.B.1.d ("Use Code 4 only when the application is expressly withdrawn by the applicant before a credit decision is made.").

Supervision directed one or more institutions to enhance their policies and procedures regarding their HMDA reporting of the actions taken on loans and applications and, where necessary, provide adverse action notices. Supervision also required one or more institutions to resubmit their HMDA Loan Application Register (LAR) where the number of errors exceeded the CFPB's HMDA resubmission thresholds.

2.5.2 Equal Credit Opportunity Act Special Purpose Credit Programs

The Equal Credit Opportunity Act (ECOA)[36] and Regulation B[37] permit a creditor to extend special purpose credit to applicants who meet eligibility requirements for certain types of credit programs.[38] Regulation B specifically confers special purpose credit program status upon:

> Any special purpose credit program offered by a for-profit organization, or in which such an organization participates to meet special social needs, if:
>
> (i) The program is established and administered pursuant to a written plan that identifies the class of persons that the program is designed to benefit and sets forth the procedures and standards for extending credit pursuant to the program; and
>
> (ii) The program is established and administered to extend credit to a class of persons who, under the organization's customary standards of creditworthiness, probably would not receive such credit or would receive it on less favorable terms than are ordinarily available to other applicants applying to the organization for a similar type and amount of credit.[39]

The commentary to Regulation B clarifies that, in order to satisfy these requirements, "a for-profit organization must determine that the program will benefit a class of people who would otherwise be denied credit or would receive it on less favorable terms. This determination can be based on a broad analysis using the organization's own research or data from outside sources, including governmental reports and studies."[40]

During the course of the Bureau's supervisory activity, examination teams have observed credit decisions made pursuant to the terms of programs that for-profit institutions have described as special purpose credit programs. Examination teams have reviewed the terms of the programs, including the written plan required by Regulation B, and the institution's determination that the program would benefit a class of people who would otherwise be denied credit or would receive it on less favorable terms.

In one or more reviews, examiners observed programs that were established pursuant to these provisions of ECOA and Regulation B. For example, in one or more reviews, examiners observed a small business lending program providing credit to minority-owned businesses. The program was established and administered pursuant to a written plan and was based on a determination that minority-owned firms were otherwise more likely to be denied credit than non-minority owned firms.

In addition, in one or more reviews, examiners observed a mortgage lending program with special rates and terms for individuals with income below certain thresholds or buying property in areas where the median income was below certain thresholds. The program was established and administered pursuant to a written plan and was based on a determination that applicants meeting one or both of the aforementioned criteria had credit characteristics that otherwise would result either in denial of mortgage credit or in higher-priced mortgage credit.

In every case, special purpose credit program status depends upon adherence to the ECOA and Regulation B requirements for special purpose credit programs. A program, for example, offering more favorable pricing or products exclusively to a particular class of persons without evidence that such individuals would otherwise be denied credit or would receive it on less favorable terms would not satisfy the ECOA and Regulation B requirements for a special purpose credit program. With that in mind, however, the Bureau generally takes a favorable view of conscientious efforts that institutions may undertake to develop special purpose credit programs to promote extensions of credit to any class of persons who would otherwise be denied credit or would receive it on less favorable terms.

2.6 Remedial Actions

The public enforcement actions listed below resulted, at least in part, from recent supervisory work. As described above, Supervision also continues to resolve matters using non-public supervisory tools, where appropriate.

2.6.1 Public Enforcement Actions

The Bureau's supervisory activities resulted in or supported the following public enforcement action.

Citibank, N.A.

On February 23, 2016, the CFPB took action[41] against Citibank, N.A. (Citibank) for illegal debt sales practices. Citibank, from February 2010 until June 2013, provided inaccurate and inflated annual percentage rate (APR) information for almost 130,000 credit card accounts it sold to debt buyers. These buyers then used the exaggerated APR in debt collection attempts. Citibank also failed to promptly forward to debt buyers approximately 14,000 customer payments totaling almost $1 million. This delayed the updating of account balances and subjected consumers to collection efforts from debt buyers after they had already, in reality, paid off their account. The CFPB ordered Citibank to provide nearly $5 million in consumer relief and pay a $3 million penalty for selling credit card debt with inflated interest rates and for failing to forward consumer payments promptly to debt buyers.

2.6.2 Non-Public Supervisory Actions

In addition to the public enforcement actions above, recent supervisory activities have resulted in approximately $24.5 million in restitution to more than 257,000 consumers. These non-public supervisory actions generally have been the product of CFPB ongoing supervision and/or targeted examinations, involving either examiner findings or self-reported violations of Federal consumer financial law. Recent non-public resolutions were reached in the areas of automobile finance and remittances.

3. Examination Procedures

3.1 Coordination With State and Federal Regulators on Supervisory Matters

The CFPB coordinates certain supervisory activities with appropriate

---

[35] 12 CFR 1002.9(a)(1)(ii).

[36] 15 U.S.C. 1601 *et seq.*

[37] 12 CFR part 1002.

[38] 15 U.S.C. 1691(c)(3) (providing that ECOA's prohibitions against discrimination are not violated when a creditor refuses to extend credit offered pursuant to certain special purpose credit programs satisfying Regulation B-prescribed standards); 12 CFR 1002.8 (special purpose credit program standards).

[39] 12 CFR 1002.8(a)(3).

[40] 12 CFR part 1002, Supp. I, 1002.8, comment 8(a)–5.

[41] *See* Press Release at *http://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-citibank-to-provide-relief-to-consumers-for-illegal-debt-sales-and-collection-practices/.*

Federal and State bank and nonbank regulators.

At the State level, coordinated supervision helps maximize the agencies' collective effectiveness at protecting consumers, increasing efficiency, avoiding supervisory duplication, and minimizing burden on supervised entities. The CFPB, the Conference of State Bank Supervisors (CSBS), other State agency associations, and 62 agencies in all fifty states, the District of Columbia, Puerto Rico, and Guam have joined a cooperative Memorandum of Understanding (MOU) to facilitate coordinated activities.

In addition, the Bureau and State regulatory agencies (through CSBS) have established a Framework[42] for cooperation and coordination on State bank and nonbank examinations. The Bureau works with State regulators and other State regulatory associations on nonbank supervisory matters through the State Coordinating Committee (SCC) referenced under the Framework to facilitate scheduling of and participation in coordinated examinations. The Bureau and the SCC have conducted multiple coordinated examinations during the review period and are currently preparing the 2017 nonbank coordinated examination schedule. The Bureau has also implemented processes to share its examination schedules, examination reports, and supervisory letters with its State counterparts.

At the Federal level, the Bureau coordinates with the prudential regulators, including the Office of the Comptroller of the Currency (OCC), the Federal Reserve Banks and the Board of Governors of the Federal Reserve System (Federal Reserve), the National Credit Union Administration (NCUA), and the Federal Deposit Insurance Corporation (FDIC), regarding various supervisory matters. In connection with very large State-chartered banks and credit unions and certain nonbanks under the CFPB's supervisory authority, the CFPB may coordinate with both the appropriate State and Federal agencies. Representatives of the Bureau and the Federal prudential regulators meet regularly to coordinate supervisory and other activities, and supervisory staff at the Bureau and the Federal prudential regulators confer on a routine basis to discuss examinations and other supervisory matters regarding particular institutions.

3.2 *Recent CFPB Guidance*

The CFPB is committed to providing guidance on its supervisory priorities to industry and members of the public.

3.2.1 Expiration of the Suspension of Credit Card Agreement Submission Under TILA (Regulation Z)

Regulation Z requires credit card issuers to submit their currently-offered credit card agreements to the Bureau, to be posted on the Bureau's Web site. In April 2015, the Bureau suspended that submission obligation for a period of one year. That suspension has expired, and a submission was due on the first business day on or after April 30, 2016 (*i.e.*, May 2, 2016).[43]

3.2.2 Interagency Guidance Regarding Deposit Reconciliation Practices

On May 18, 2016, the CFPB jointly released guidance with the Federal Reserve, the FDIC, the NCUA, and the OCC regarding deposit account reconciliation practices. This guidance informs financial institutions about supervisory expectations regarding customer account deposit reconciliation practices.

The guidance establishes the supervisory expectation that financial institutions will adopt deposit reconciliation policies and practices that are designed to avoid or reconcile discrepancies, or designed to resolve discrepancies so that customers are not disadvantaged. In addition, the guidance affirms the expectation that financial institutions will effectively manage their deposit reconciliation practices to comply with applicable laws and regulations and to prevent potential harm to customers. The guidance also notes that financial institutions should implement effective CMS to ensure compliance with applicable laws and regulations, and fair treatment of customers. The guidance notes that a financial institution's deposit reconciliation practices may, depending on the facts and circumstances, violate the prohibition against unfair, deceptive, and abusive acts or practices found in Section 5 of the Federal Trade Commission Act and sections 1031 and 1036 of the Dodd-Frank Act.[44]

The Bureau expects to continue coordinating with other agencies on these issues, and will consider appropriate action if law violations are identified at institutions or their service providers, consistent with the Bureau's authority.

4. Conclusion

One of the Bureau's goals is to provide information that enables industry participants to ensure their operations remain in compliance with Federal consumer financial law. The CFPB recognizes the value of communicating program findings to CFPB-supervised entities to aid their efforts to comply with Federal consumer financial law, and to other stakeholders to foster better understanding of the CFPB's work.

To this end, the Bureau remains committed to publishing its *Supervisory Highlights* report periodically in order to share information regarding general supervisory and examination findings (without identifying specific institutions, except in the case of public enforcement actions), to communicate operational changes to the program, and to provide a convenient and easily accessible resource for information on the CFPB's guidance documents.

Dated: June 29, 2016.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2016–16787 Filed 7–15–16; 8:45 am]

BILLING CODE 4810–AM–P

---

[42] For more on the framework, *see http://files.consumerfinance.gov/f/201305_cfpb_state-supervisory-coordination-framework.pdf.*

[43] Submission instructions can be found on the Bureau's Web site at *http://www.consumerfinance.gov/credit-cards/agreements/.*

[44] *See,* for example, the CFPB's action against Citizens Bank, summarized in the Fall 2015 edition of *Supervisory Highlights, available at http://files.consumerfinance.gov/f/201510_cfpb_supervisory-highlights.pdf* and the Order issued on August 12, 2015, *available at http://files.consumerfinance.gov/f/201408_cfpb_consent-order-rbs-citizens.pdf.*

DEPARTMENT OF DEFENSE

Office of the Secretary

Government-Industry Advisory Panel; Notice of Federal Advisory Committee Meeting

AGENCY: Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics), Department of Defense (DoD).

ACTION: Federal advisory committee meeting notice.

SUMMARY: The Department of Defense is publishing this notice to announce the following Federal advisory committee meeting of the Government-Industry Advisory Panel. This meeting is open to the public.

DATES: The meeting will be held from 1:00 p.m. to 5:00 p.m. on Tuesday, August 2, 2016. Public registration will begin at 12:45 p.m. For entrance into the meeting, you must meet the necessary requirements for entrance into the Pentagon. For more detailed information, please see the following link: *http://www.pfpa.mil/access.html.*

ADDRESSES: Pentagon Library, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155. The meeting will be held in Room M2. The Pentagon Library is located in the Pentagon Library and Conference Center (PLC2) across the Corridor 8 bridge.

FOR FURTHER INFORMATION CONTACT: LTC Andrew Lunoff, Office of the Assistant Secretary of Defense (Acquisition), 3090 Defense Pentagon, Washington, DC 20301–3090, email: *andrew.s.lunoff.mil@mail.mil,* phone: 571–256–9004.

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: This meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (FACA) (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150. The Government-Industry Advisory Panel will review sections 2320 and 2321 of title 10, United States Code (U.S.C.), regarding rights in technical data and the validation of proprietary data restrictions and the regulations implementing such sections, for the purpose of ensuring that such statutory and regulatory requirements are best structured to serve the interest of the taxpayers and the national defense. The scope of the panel is as follows: (1) Ensuring that the Department of Defense (DoD) does not pay more than once for the same work, (2) Ensuring that the DoD contractors are appropriately rewarded for their innovation and invention, (3) Providing for cost-effective reprocurement, sustainment, modification, and upgrades to the DoD systems, (4) Encouraging the private sector to invest in new products, technologies, and processes relevant to the missions of the DoD, and (5) Ensuring that the DoD has appropriate access to innovative products, technologies, and processes developed by the private sector for commercial use.

Agenda: This will be the fourth meeting of the Government-Industry Advisory Panel with a series of meetings planned through October 1, 2016. The panel will cover details of 10 U.S.C. 2320 and 2321, begin understanding the implementing regulations and detail the necessary groups within the private sector and government to provide supporting documentation for their review of these codes and regulations during follow-on meetings. Agenda items for this meeting will include the following: (1) Briefing from Office of the Secretary of Defense Research & Engineering on current Modular Open Systems Approach (MOSA); (2) Briefing from Joint PEO on current challenges with Intellectual Property regulations, strategies and guidance; (3) Briefing from industry program managers on experiences in development of new products, selling commercial products to government and challenges associated to intellectual property regulations strategies used by the government; (4) Public Comments; (5) Comment Adjudication & Planning for follow-on meeting.

Availability of Materials for the Meeting: A copy of the agenda or any updates to the agenda for the August 2, 2016 meeting will be available as requested or at the following site: *http://www.facadatabase.gov/committee/meetings.aspx?cid=2561.*

Minor changes to the agenda will be announced at the meeting. All materials will be posted to the FACA database after the meeting.

Public Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165, and subject to the availability of space, this meeting is open to the public. Registration of members of the public who wish to attend the meeting will begin upon publication of this meeting notice and end three business days (July 28) prior to the start of the meeting. All members of the public must contact LTC Lunoff at the phone number or email listed in the **FOR FURTHER INFORMATION CONTACT** section to make arrangements for Pentagon escort, if necessary. Public attendees should arrive at the Pentagon's Visitor's Center, located near the Pentagon Metro Station's south exit and adjacent to the Pentagon Transit Center bus terminal with sufficient time to complete security screening no later than 12:30 p.m. on August 2. To complete security screening, please come prepared to present two forms of identification of which one must be a pictured identification card. Government and military DoD CAC holders are not required to have an escort, but are still required to pass through the Visitor's Center to gain access to the Building. Seating is limited and is on a first-to-arrive basis. Attendees will be asked to provide their name, title, affiliation, and contact information to include email address and daytime telephone number to the Designated Federal Officer (DFO) listed in the **FOR FURTHER INFORMATION CONTACT** section. Any interested person may attend the meeting, file written comments or statements with the committee, or make verbal comments from the floor during the public meeting, at the times, and in the manner, permitted by the committee.

Special Accommodations: The meeting venue is fully handicap accessible, with wheelchair access.

Individuals requiring special accommodations to access the public meeting or seeking additional information about public access procedures, should contact LTC Lunoff, the committee DFO, at the email address or telephone number listed in the **FOR FURTHER INFORMATION CONTACT** section, at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

Written Comments or Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, the public or interested organizations may submit written comments or statements to the Government-Industry Advisory Panel about its mission and/or the topics to be addressed in this public meeting. Written comments or statements should be submitted to LTC Lunoff, the committee DFO, via electronic mail, the preferred mode of submission, at the email address listed in the **FOR FURTHER INFORMATION CONTACT** section in the following formats: Adobe Acrobat or Microsoft Word. The comment or statement must include the author's name, title, affiliation, address, and daytime telephone number. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the committee DFO at least five (5) business days prior to the meeting so that they may be made available to the Government-Industry Advisory Panel for its consideration prior to the meeting. Written comments or statements received after this date may not be provided to the panel until its next meeting. Please note that because the panel operates under the provisions of the Federal Advisory Committee Act, as amended, all written comments will be treated as public documents and will be made available for public inspection.

Verbal Comments: Members of the public will be permitted to make verbal comments during the meeting only at the time and in the manner allowed herein. If a member of the public is interested in making a verbal comment at the open meeting, that individual must submit a request, with a brief statement of the subject matter to be addressed by the comment, at least three (3) business days in advance to the committee DFO, via electronic mail, the preferred mode of submission, at the email address listed in the **FOR FURTHER INFORMATION CONTACT** section. The committee DFO will log each request to make a comment, in the order received, and determine whether the subject matter of each comment is relevant to the panel's mission and/or the topics to be addressed in this public meeting. A 15-minute period near the end of the meeting will be available for verbal public comments. Members of the public who have requested to make a verbal comment and whose comments have been deemed relevant under the process described in this paragraph, will be allotted no more than three (3) minutes during this period, and will be invited to speak in the order in which their requests were received by the DFO.

Dated: July 13, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–16931 Filed 7–15–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare an Environmental Impact Statement for the Lake Okeechobee Watershed Project, Okeechobee, Highlands, Charlotte, Glades, Martin and St. Lucie Counties, Florida

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: The Jacksonville District, U.S. Army Corps of Engineers (Corps) is beginning preparation of a National Environmental Policy Act assessment for the Lake Okeechobee Watershed Project (LOWP). The Everglades ecosystem, including Lake Okeechobee, encompasses a system of diverse wetland landscapes that are hydrologically and ecologically connected across more than 200 miles from north to south and across 18,000 square miles of southern Florida. In 2000, the U.S. Congress authorized the Federal government, in partnership with the State of Florida, to embark upon a multi-decade, multi-billion dollar Comprehensive Everglades Restoration Plan (CERP) to further protect and restore the remaining Everglades ecosystem while providing for other water-related needs of the region. CERP involves modification of the existing network of drainage canals and levees that make up the Central and Southern Florida Flood Control Project. One of the next steps for implementation of CERP is to identify opportunities to restore the quantity, quality, timing and distribution of flows into Lake Okeechobee. The LOW Project preliminary project area, where placement of features will be considered, covers a large portion of the Lake Okeechobee Watershed north of the lake. Water inflows into Lake Okeechobee greatly exceed outflow capacity, thus many times there is too much water within Lake Okeechobee that needs to be released in order to ensure integrity of the Herbert Hoover Dike. At other times, there may be too little water within Lake Okeechobee. Lake levels that are too high or too low, and inappropriate recession and ascension rates, can adversely affect native vegetation, and fish and wildlife species that depend upon the lake for foraging and reproduction. The volume and frequency of undesirable freshwater releases to the east and west lowers salinity in the estuaries, severely impacting oysters, sea grasses, and fish. Additionally, high nutrient levels adversely affect in-lake water quality, estuary habitat, and habitat throughout the Greater Everglades. The objectives of the LOW Project are to improve the quality, quantity, timing and distribution of water entering Lake Okeechobee, provide for better management of lake water levels, reduce damaging releases to the Caloosahatchee and St. Lucie estuaries downstream of the lake and improve system-wide operational flexibility.

ADDRESSES: U.S. Army Corps of Engineers, Planning and Policy Division, Environmental Branch, P.O. Box 4970, Jacksonville, FL 32232–0019.

FOR FURTHER INFORMATION CONTACT: Gretchen Ehlinger at 904–232–1682 or email at *gretchen.s.ehlinger@usace.army.mil.* Additional information is also available at *http://bit.ly/LakeOWatershed.*

SUPPLEMENTARY INFORMATION:

a. Since 2000, much progress has been made on CERP projects. Construction has begun on the first generation of CERP project modifications already authorized by Congress. These include the Picayune Strand Restoration, the Indian River Lagoon South and Site 1 Impoundment Projects. Congressional authorization has been received for the second generation of CERP projects, including Biscayne Bay Coastal Wetlands-Phase 1, the Broward County Water Preserve Areas, the Caloosahatchee River (C–43) West Basin Storage Reservoir, and the C–111 Spreader Canal Western Project which are already under construction or are operational, and the Broward County Water Preserve Areas which is currently being designed. The Central Everglades Planning Project is currently awaiting congressional authorization. All of these CERP projects contribute significant ecological benefits to the system and the specific regional habitats in which they are located.

b. The objectives of the LOWP are to improve the quality, quantity, timing and distribution of water entering Lake Okeechobee, provide for better management of lake water levels, reduce damaging releases to the Caloosahatchee and St. Lucie estuaries downstream of the lake and improve system-wide operational flexibility.

c. A scoping letter will be used to invite comments from Federal, State, and local agencies, affected Indian Tribes, and other interested private organizations and individuals.

d. A scoping meeting will be held July 26th, 2016 from 6:00 to 8:00 p.m. at the Okeechobee Auditorium, 3800 NW., 16th Boulevard, Suite A, Okeechobee, FL 34972.

e. All alternative plans will be reviewed under provisions of appropriate laws and regulations, including the Endangered Species Act, Fish and Wildlife Coordination Act, Clean Water Act, and Farmland Protection Policy Act.

f. The Draft Environmental Impact Assessment is expected to be available for public review in late 2017.

Dated: July 7, 2016.

Eric P. Summa,

Chief, Planning and Policy Division.

[FR Doc. 2016–16920 Filed 7–15–16; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2016–ICCD–0036]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; 2017–2018 Free Application for Federal Student Aid (FAFSA)

AGENCY: Department of Education (ED), Federal Student Aid (FSA).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before August 17, 2016.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2016–ICCD–0036. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E–343, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Misty Parkinson, 202–377–3749.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: 2017–2018 Free Application for Federal Student Aid (FAFSA).

OMB Control Number: 1845–0001.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 38,669,924.

Total Estimated Number of Annual Burden Hours: 20,036,012.

Abstract: Section 483 of the Higher Education Act of 1965, as amended (HEA), mandates that the Secretary of Education ". . . shall produce, distribute, and process free of charge common financial reporting forms as described in this subsection to be used for application and reapplication to determine the need and eligibility of a student for financial assistance. . . ".

The determination of need and eligibility are for the following title IV, HEA, federal student financial assistance programs: The Federal Pell Grant Program; the Campus-Based programs (Federal Supplemental Educational Opportunity Grant (FSEOG), Federal Work-Study (FWS), and the Federal Perkins Loan Program); the William D. Ford Federal Direct Loan Program; the Teacher Education Assistance for College and Higher Education (TEACH) Grant; and the Iraq and Afghanistan Service Grant.

Federal Student Aid, an office of the U.S. Department of Education (hereafter "the Department"), subsequently developed an application process to collect and process the data necessary to determine a student's eligibility to receive title IV, HEA program assistance. The application process involves an applicant's submission of the Free Application for Federal Student Aid (FAFSA®). After submission of the FAFSA, an applicant receives a Student Aid Report (SAR), which is a summary of the data they submitted on the FAFSA. The applicant reviews the SAR, and, if necessary, will make corrections or updates to their submitted FAFSA data. Institutions of higher education listed by the applicant on the FAFSA also receive a summary of processed data submitted on the FAFSA which is called the Institutional Student Information Record (ISIR).

The Department seeks OMB approval of all application components as a single "collection of information". The aggregate burden will be accounted for under OMB Control Number 1845–0001. The specific application components, descriptions and submission methods for each are listed in Table one.

TABLE 1—FEDERAL STUDENT AID APPLICATION COMPONENTS

Component	Description	Submission method
	Initial Submission of FAFSA	
FAFSA on the Web (FOTW)	Online FAFSA that offers applicants a customized experience	Submitted by the applicant via *fafsa.gov*.
FOTW—Renewal	Online FAFSA for applicants who have previously completed the FAFSA.	
FOTW—EZ	Online FAFSA for applicants who qualify for the Simplified Needs Test (SNT) or Automatic Zero (Auto Zero) needs analysis formulas.	
FOTW—EZ Renewal	Online FAFSA for applicants who have previously completed the FAFSA and who qualify for the SNT or Auto Zero needs analysis formulas.	
FAFSA on the Phone (FOTP).	The Federal Student Aid Information Center (FSAIC) representatives assist applicants by filing the FAFSA on their behalf through FOTW.	Submitted through *fafsa.gov* for applicants who call 1–800–4–FED–AID.
FOTP—EZ	FSAIC representatives assist applicants who qualify for the SNT or Auto Zero needs analysis formulas by filing the FAFSA on their behalf through FOTW.	
FAA Access	Online tool that a financial aid administrator (FAA) utilizes to submit a FAFSA.	Submitted through *faaaccess.ed.gov* by an FAA on behalf of an applicant.
FAA Access—Renewal	Online tool that an FAA can utilize to submit a Renewal FAFSA.	
FAA Access—EZ	Online tool that an FAA can utilize to submit a FAFSA for applicants who qualify for the SNT or Auto Zero needs analysis formulas.	

TABLE 1—FEDERAL STUDENT AID APPLICATION COMPONENTS—Continued

Component	Description	Submission method
FAA Access—EZ Renewal	Online tool that an FAA can utilize to submit a FAFSA for applicants who have previously completed the FAFSA and who qualify for the SNT or Auto Zero needs analysis formulas.	
Electronic Other	This is a submission done by an FAA, on behalf of the applicant, using the Electronic Data Exchange (EDE).	The FAA may be using their mainframe computer or software to facilitate the EDE process.
Printed FAFSA	The printed version of the PDF FAFSA for applicants who are unable to access the Internet or complete the form using FOTW.	Mailed by the applicant.
Correcting Submitted FAFSA Information and Reviewing FAFSA Information		
FOTW—Corrections	Any applicant who has a Federal Student Aid ID (FSA ID)—regardless of how they originally applied—may make corrections using FOTW Corrections.	Submitted by the applicant via *fafsa.gov.*
Electronic Other—Corrections.	With the applicant's permission, corrections can be made by an FAA using the EDE.	The FAA may be using their mainframe computer or software to facilitate the EDE process.
Paper SAR—This is a SAR and an option for corrections..	The full paper summary that is mailed to paper applicants who did not provide an e-mail address and to applicants whose records were rejected due to critical errors during processing. Applicants can write corrections directly on the paper SAR and mail for processing.	Mailed by the applicant.
FAA Access—Corrections	An institution can use FAA Access to correct the FAFSA	Submitted through *faaaccess.ed.gov* by an FAA on behalf of an applicant.
Internal Department Corrections.	The Department will submit an applicant's record for system-generated corrections.	There is no burden to the applicants under this correction type as these are system-based corrections.
FSAIC Corrections	Any applicant, with their Data Release Number (DRN), can change the postsecondary institutions listed on their FAFSA or change their address by calling FSAIC.	These changes are made directly in the CPS system by a FSAIC representative.
SAR Electronic (eSAR)	The eSAR is an online version of the SAR that is available on FOTW to all applicants with an FSA ID. Notifications for the eSAR are sent to students who applied electronically or by paper and provided an e-mail address. These notifications are sent by e-mail and include a secure hyperlink that takes the user to the FOTW site.	Cannot be submitted for processing.

This information collection also documents an estimate of the annual public burden as it relates to the application process for federal student aid. The Applicant Burden Model (ABM) measures applicant burden through an assessment of the activities each applicant conducts in conjunction with other applicant characteristics and in terms of burden, the average applicant's experience. Key determinants of the ABM include:

☐ The total number of applicants that will potentially apply for federal student aid;

☐ How the applicant chooses to complete and submit the FAFSA (*e.g.,* by paper or electronically via FOTW®);

☐ How the applicant chooses to submit any corrections and/or updates (*e.g.,* the paper SAR or electronically via FOTW Corrections);

☐ The type of SAR document the applicant receives (eSAR, SAR acknowledgment, or paper SAR);

☐ The formula applied to determine the applicant's expected family contribution (EFC) (full need analysis formula, Simplified Needs Test or Automatic Zero); and

☐ The average amount of time involved in preparing to complete the application.

The ABM is largely driven by the number of potential applicants for the application cycle. The total application projection for 2017–2018 is based upon two factors—estimating the growth rate of the total enrollment into post-secondary education and applying the growth rate to the FAFSA submissions. The ABM is also based on the application options available to students and parents. The Department accounts for each application component based on web trending tools, survey information, and other Department data sources.

For this 2017–2018 Free Application for Federal Student Aid (FAFSA) collection, the Department is reporting a net burden decrease of −524,469 hours.

The reporting hour burden calculations in this notice reflect the Department's best estimates using data from the 2015–16 FAFSA application cycle in which Federal Student Aid traditionally has estimated reporting burden. However, in order to reflect a change in which prior tax year's information will be utilized in the application, a conservative estimate has been reflected as part of the reporting hour burden calculation. As such, we will continuously monitor and capture statistical information in order to reflect more accurate calculations in future cycles.

Dated: July 13, 2016.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2016–16930 Filed 7–15–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for electronic review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket No.	File date	Presenter or requester
Prohibited:		
1. CP15–138–000	6–27–2016	Sharon and Russell Olt.
2. P–2082–027	6–28–2016	Siskiyou County Water Users Association.
3. CP15–500–000	7–8–2016	Luc Novovitch.
Exempt:		
1. P–2464–000, P–2484–000	6–27–2016	FERC Staff.[1]
2. CP16–10–000	6–27–2016	U.S. House Representative H. Morgan Griffith.
3. CP16–38–000	6–28–2016	FERC Staff.[2]
4. CP16–10–000	6–29–2016	Franklin County, Virginia County Administrator W. Brent Robertson.
5. CP15–514–000	6–29–2016	State of Pennsylvania Senator Camera Bartolotta.
6. P–2485–000, P–1889–000	7–1–2016	FERC Staff.[3]
7. EL15–95–000	7–5–2016	State of Maryland Governor Larry Hogan.
8. CP15–138–000	7–5–2016	State of Pennsylvania House Representative Bryan Cutler.
9. CP15–115–000, CP15–115–001	7–8–2016	FERC Staff.[4]
10. CP15–539–000	7–11–2016	FERC Staff.[5]
11. CP15–514–000	7–11–2016	FERC Staff.[6]

[1] Email dated June 23, 2016 with Grace Schwefel from Village of Gresham.

[2] Memo dated June 28, 2016 reporting email with Columbia Gas Transmission, LLC.

[3] Email dated May 12, 2016 between Paul Richmond and John Bullard from National Marine Fisheries Services.

[4] Email dated July 7, 2016 between Bruce Clark from Natfuel and Jeff Thommes from ERM.

[5] Memo dated July 8, 2016 forwarding emails with Columbia Pipeline Group.

[6] Memo dated July 8, 2016 forwarding emails with Columbia Pipeline Group.

Dated: July 12, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–16881 Filed 7–15–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP16–1086–000.

Applicants: Questar Overthrust Pipeline Company.

Description: Annual Fuel Reimbursement Report of Questar Overthrust Pipeline Company.

Filed Date: 7/11/16.

Accession Number: 20160711–5096.

Comments Due: 5 p.m. ET 7/25/16.

Docket Numbers: RP16–1087–000.

Applicants: High Island Offshore System, L.L.C.

Description: § 4(d) Rate Filing: Revise NGL Bank BTU Calculation to be effective 12/1/2015.

Filed Date: 7/11/16.

Accession Number: 20160711–5169.

Comments Due: 5 p.m. ET 7/25/16.

Docket Numbers: RP16–1088–000.

Applicants: Trailblazer Pipeline Company LLC.

Description: § 4(d) Rate Filing: PALS Service to be effective 9/1/2016.

Filed Date: 7/12/16.

Accession Number: 20160712–5000.

Comments Due: 5 p.m. ET 7/25/16.

Docket Numbers: RP16–1089–000.

Applicants: Tennessee Gas Pipeline Company, L.L.C.

Description: § 4(d) Rate Filing: Volume No. 2—Neg. Rate Agmts Enerplus Resources SP319104 and SP319105 to be effective 8/1/2016.

Filed Date: 7/12/16.

Accession Number: 20160712–5029.

Comments Due: 5 p.m. ET 7/25/16.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP16–329–001.

Applicants: Transwestern Pipeline Company, LLC.
Description: Compliance filing RP16–329 Compliance Filing to be effective 7/1/2016.
Filed Date: 7/12/16.
Accession Number: 20160712–5019.
Comments Due: 5 p.m. ET 7/25/16.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 12, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–16880 Filed 7–15–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC16–146–000.
Applicants: Great Plains Energy, Westar Energy, Inc.
Description: Joint Application of Great Plains Energy Incorporated and Westar Energy, Inc. for Authorization of Disposition of Jurisdictional Assets and Merger.
Filed Date: 7/11/16.
Accession Number: 20160711–5204.
Comments Due: 5 p.m. ET 9/9/16.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG16–127–000.
Applicants: East Pecos Solar, LLC.
Description: Self-Certification of EG or FC of East Pecos Solar, LLC.
Filed Date: 7/12/16.
Accession Number: 20160712–5045.
Comments Due: 5 p.m. ET 8/2/16.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2507–008.
Applicants: Westar Energy, Inc.
Description: Notice of Non-Material Change in Status of Westar Energy, Inc.
Filed Date: 7/11/16.
Accession Number: 20160711–5205.
Comments Due: 5 p.m. ET 8/1/16.

Docket Numbers: ER10–2633–025; ER10–2570–025; ER10–2717–025; ER10–3140–025; ER13–55–015.
Applicants: Birchwood Power Partners, L.P., Shady Hills Power Company, L.L.C., EFS Parlin Holdings, LLC, Inland Empire Energy Center, LLC, Homer City Generation, L.P.
Description: Supplement to July 7, 2016 Notice of Non-Material Change in Status of the GE Companies under ER10–2633, et al.
Filed Date: 7/7/16.
Accession Number: 20160708–5080.
Comments Due: 5 p.m. ET 7/28/16.

Docket Numbers: ER16–1882–000.
Applicants: Boulder Solar Power, LLC.
Description: Supplement to June 3, 2016 Boulder Solar Power, LLC tariff filing.
Filed Date: 7/11/16.
Accession Number: 20160711–5201.
Comments Due: 5 p.m. ET 8/1/16.

Docket Numbers: ER16–2176–000.
Applicants: Pacific Gas and Electric Company.
Description: Application of Pacific Gas and Electric Company for a One-Time Waiver of a Generator Interconnection Procedures requirement in its Wholesale Distribution Tariff (FERC Electric Tariff Volume No. 4).
Filed Date: 7/11/16.
Accession Number: 20160711–5200.
Comments Due: 5 p.m. ET 8/1/16.

Docket Numbers: ER16–2177–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Cancellation: Notice of Cancellation of WMPA SA No. 4461, Queue No. W4–027 to be effective 7/19/2016.
Filed Date: 7/12/16.
Accession Number: 20160712–5025.
Comments Due: 5 p.m. ET 8/2/16.

Docket Numbers: ER16–2178–000.
Applicants: NorthWestern Corporation.
Description: § 205(d) Rate Filing: SA 781—Agreement with Montana DOT re Whitehall-South Project to be effective 7/13/2016.
Filed Date: 7/12/16.
Accession Number: 20160712–5032.
Comments Due: 5 p.m. ET 8/2/16.

Docket Numbers: ER16–2179–000.
Applicants: Duke Energy Progress, LLC, Duke Energy Florida, LLC, Duke Energy Carolinas, LLC.
Description: § 205(d) Rate Filing: Order No. 827 Compliance Filing to be effective 9/21/2016.
Filed Date: 7/12/16.
Accession Number: 20160712–5038.
Comments Due: 5 p.m. ET 8/2/16.

Docket Numbers: ER16–2180–000.
Applicants: NorthWestern Corporation.
Description: § 205(d) Rate Filing: SA 782—Agreement with City of Bozeman re Story Mill Park to be effective 7/13/2016.
Filed Date: 7/12/16.
Accession Number: 20160712–5070.
Comments Due: 5 p.m. ET 8/2/16.

Docket Numbers: ER16–2182–000.
Applicants: International Transmission Company, Michigan Electric Transmission Company, LLC, ITC Midwest LLC, ITC Great Plains, LLC.
Description: International Transmission Company, et al. submits Compliance Refund Report per 35.19a(b): [4/19/2016 Letter Order in FA14–15].
Filed Date: 7/7/16.
Accession Number: 20160707–5237.
Comments Due: 5 p.m. ET 7/28/16.

Docket Numbers: ER16–2183–000.
Applicants: New York Independent System Operator, Inc.
Description: § 205(d) Rate Filing: NYISO filing of LGIA (SA 2276) among NYISO, NYPA and Jericho Rise Wind Farm to be effective 6/29/2016.
Filed Date: 7/12/16.
Accession Number: 20160712–5129.
Comments Due: 5 p.m. ET 8/2/16.

Docket Numbers: ER16–2184–000.
Applicants: Southern California Edison Company.
Description: § 205(d) Rate Filing: Amended Letter Agreement City of Pasadena to be effective 9/11/2016.
Filed Date: 7/12/16.
Accession Number: 20160712–5134.
Comments Due: 5 p.m. ET 8/2/16.

Docket Numbers: ER16–2185–000.
Applicants: Westar Energy, Inc.
Description: § 205(d) Rate Filing: Cost-Based Tariff Vol. No. 20 to be effective 8/31/2010.
Filed Date: 7/12/16.
Accession Number: 20160712–5138.
Comments Due: 5 p.m. ET 8/2/16.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES16–42–000.
Applicants: Trans Bay Cable LLC.
Description: Application under Section 204 of the Federal Power Act for Authority to Issue Securities of Trans Bay Cable LLC.
Filed Date: 7/12/16.
Accession Number: 20160712–5087.
Comments Due: 5 p.m. ET 8/2/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 12, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–16878 Filed 7–15–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: CP16–469–000.
Applicants: ANR Storage Company.
Description: Abbreviated Application of ANR Storage Company for Approval to Abandon Individually Certificated Part 157 Service and Provide Part 284 Service.
Filed Date: 6/16/16.
Accession Number: 20160616–5109.
Comments Due: 5 p.m. ET 7/15/16.

Docket Numbers: RP16–1082–000.
Applicants: Columbia Gas Transmission, LLC.
Description: Petition for Approval of Settlement of Columbia Gas Transmission, LLC.
Filed Date: 6/30/16.
Accession Number: 20160630–5425.
Comments Due: 5 p.m. ET 7/12/16.

Docket Numbers: RP16–1083–000.
Applicants: MIGC LLC.
Description: Annual Fuel Retention Percentage Tracker of MIGC LLC.
Filed Date: 7/1/16.
Accession Number: 20160701–5344.
Comments Due: 5 p.m. ET 7/13/16.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP01–382–026.
Applicants: Northern Natural Gas Company.
Description: Northern Natural Gas Company submits Carlton Reimbursement Report.
Filed Date: 6/1/16.
Accession Number: 20160601–5395.
Comments Due: 5 p.m. ET 6/18/16.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 11, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–16879 Filed 7–15–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL16–90–000]

Panda Liberty LLC; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On July 12, 2016, the Commission issued an order in Docket No. EL16–90–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2012), instituting an investigation into the justness and reasonableness of Panda Liberty LLC's proposed reactive power rate schedule. *Panda Liberty LLC,* 156 FERC ¶ 61,033 (2016).

The refund effective date in Docket No. EL16–90–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register.**

Dated: July 12, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–16894 Filed 7–15–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL16–96–000]

PJM Interconnection, L.L.C.; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On July 11, 2016, the Commission issued an order in Docket No. EL16–96–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2012), instituting an investigation into the justness and reasonableness of certain aspects of PJM Interconnection, L.L.C.'s Amended and Restated Operating Agreement. *PJM Interconnection, L.L.C.,* 156 FERC ¶ 61,030 (2016).

The refund effective date in Docket No. EL16–96–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register.**

Dated: July 12, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–16895 Filed 7–15–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RD16–4–000]

Proposed Agency Information Collection

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice and request for comments.

SUMMARY: The Federal Energy Regulatory Commission (Commission) invites public comment in Docket No. RD16–4–000 on a proposed change to a collection of information (FERC–725M, Mandatory Reliability Standards: Generator Requirements at the Transmission Interface) that the Commission is developing for submission to the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995. The Commission previously issued a Notice in the **Federal Register** (81 FR 26543, May 3, 2016) requesting public

comments. The Commission received no comments and is making this notation in the submittals to OMB.

DATES: Comments regarding the proposed information collections must be received on or before August 17, 2016.

ADDRESSES: Comments filed with OMB, identified by the OMB Control No. 1902–0263, should be sent via email to the Office of Information and Regulatory Affairs at: *oira_submission@omb.gov*, Attention: Federal Energy Regulatory Commission Desk Officer.

A copy of the comments should also be sent to the Commission, in Docket No. RD16–4–000, by either of the following methods:

- *eFiling at Commission's Web site: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663, and fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION: The Commission will submit the reporting and recordkeeping requirements of proposed Reliability Standard FAC–003–4 (Transmission Vegetation Management) to OMB for review. Proposed Reliability Standard FAC–003–4 [1] replaces the requirements from the previous version of the Reliability Standard (FAC–003–3 [2]), which is approved under FERC–725M (Mandatory Reliability Standards: Generator Requirements at the Transmission Interface, OMB Control No. 1902–0263).

Type of Request: Three-year approval of the revised FERC–725M information collection requirements with the stated changes to the current reporting and record retention requirements.

Abstract: The Commission requires the information collected by the FERC–725M to implement the statutory provisions of section 215 of the Federal Power Act (FPA).[3] On August 8, 2005, Congress enacted into law the Electricity Modernization Act of 2005, which is title XII, subtitle A, of the Energy Policy Act of 2005 (EPAct 2005).[4] EPAct 2005 added a new section 215 to the FPA, which requires a Commission-certified Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards, which are subject to Commission review and approval. Once approved, the Reliability Standards may be enforced by the ERO subject to Commission oversight, or the Commission can independently enforce Reliability Standards.[5]

On February 3, 2006, the Commission issued Order No. 672, implementing section 215 of the FPA.[6] Pursuant to Order No. 672, the Commission certified one organization, the North American Electric Reliability Corporation (NERC), as the ERO.[7] The Reliability Standards developed by the ERO and approved by the Commission apply to users, owners and operators of the Bulk-Power System as set forth in each Reliability Standard.

On March 14, 2016, NERC filed a petition for Commission approval of proposed Reliability Standard FAC–003–4 (Transmission Vegetation Management). NERC states in its petition that proposed Reliability Standard FAC–003–4 reflects revisions to the current Minimum Vegetation Clearance Distances (MVCDs) in Reliability Standard FAC–003–3 based on additional testing regarding the appropriate gap factor to be used to calculate clearance distances for vegetation. NERC explains that in response to the Commission's directive as part of its approval of an earlier version of the Reliability Standard, FAC–003–2, NERC contracted with the Electric Power Research Institute (EPRI) to conduct this testing.[8] As NERC notes, when the Commission approved Reliability Standard FAC–003–2, the Commission stated that "it is important that NERC develop empirical evidence that either confirms assumptions used in calculating the MVCD values based on the Gallet equation, or gives reason to revisit the Reliability Standard." [9]

NERC states in its petition that preliminary testing conducted by EPRI indicated that the gap factor used to calculate MVCDs should be adjusted. NERC further explains that proposed Reliability Standard FAC–003–4 proposes higher and more conservative MVCD values, and therefore maintains that these revisions will "enhance reliability and provide additional confidence by applying a more conservative approach to determining the vegetation clearing distances." [10] NERC states that the revised clearances as reflected in Table 2 were moved into the text of the proposed Reliability Standard, and that MVCD values were added for elevations up to 15,000 feet, but that no other substantive changes were made to the currently-effective Reliability Standard FAC–003–3.[11]

Type of Respondents: Transmission Owner (TO) and Generator Owner (GO)

Estimate of Annual Burden:[12] The burden and cost estimates below are based on the number of transmission owners and generator owners as reflected in NERC's registry (*i.e.,* updated since the Commission's approval of earlier versions of FAC–003). Transmission owners and applicable generator owners have a one-time burden to review and modify existing documentation, plans and procedures, as well as an ongoing burden to retain records. Our estimate of the number of respondents affected is based on the NERC Compliance Registry as of February 25, 2016. According to the Compliance Registry, NERC has registered 320 transmission owners and 940 generator owners within the United States, and we estimate that approximately 10 percent (or 94) of the registered generator owners have interconnection facilities that meet the requirements for applicability under the new standard. The estimated annual burden and cost of the new standard follow.[13]

---

[1] The Reliability Standard was approved in a Delegated Order issued on 4/26/2016 (posted at *http://elibrary-backup.ferc.gov/idmws/common/opennat.asp?fileID=14218839*).

[2] Reliability Standard FAC–003–3 was approved in Order No. 785 in Docket No. RM12–16–000. *Revisions to Reliability Standard for Transmission Vegetation Management,* Order No. 777, 142 FERC ¶ 61,208 (2013). The associated reporting and recordkeeping requirements in FAC–003–3 were approved by OMB on Dec. 17, 2013, under FERC–725M.

[3] 16 U.S.C. 824*o* (2012).

[4] Energy Policy Act of 2005, Public Law 109–58, title XII, subtitle A, 119 Stat. 594, 941 (codified at 16 U.S.C. 824*o*).

[5] 16 U.S.C. 824*o*(e)(3).

[6] *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards,* Order No. 672, FERC Stats. & Regs. ¶ 31,204, *order on reh'g,* Order No. 672–A, FERC Stats. & Regs. ¶ 31,212 (2006).

[7] *North American Electric Reliability Corp.,* 116 FERC ¶ 61,062, *order on reh'g and compliance,* 117 FERC ¶ 61,126 (2006), *order on compliance,* 118 FERC ¶ 61,190, *order on reh'g,* 119 FERC ¶ 61,046 (2007), *aff'd sub nom. Alcoa Inc.* v. *FERC,* 564 F.3d 1342 (D.C. Cir. 2009).

[8] NERC Petition at 7 (citing Order No. 777, 142 FERC ¶ 61,208 (2013)).

[9] Order No. 777, 142 FERC ¶ 61,208 at P 3.

[10] NERC Petition at 3.

[11] *Id.* at 12, and n. 37 (describing certain non-substantive edits to the standard and implementation plan as compared to the currently-effective version of the standard).

[12] The Commission defines "burden" as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. For further information, refer to 5 CFR 1320.3.

FERC–725M—CHANGES DUE TO FAC–003–4 IN DOCKET NO. RD16–4–000

Requirements/measures[14]	Number of respondents[15] (1)	Number of responses per respondent (2)	Total number of responses (1)*(2)=(3)	Average burden hours and cost per response (4)	Total annual burden hours and cost (3)*(4)=(5)	Total annual cost per respondent ($)
Strategies, documentation, processes, & procedures (M3) [one-time].	414	1	414	4 hrs.; $248.64	1,656 hrs.; $102,936.96 [@$62.16/hr.].	$248.64
Record Retention (Compliance 1.2) [ongoing].	414	1	414	1 hr.; $31.76	414 hrs.; $13,148.64 [@$31.76/hr.].	31.76
Total Net Change, due to RD16–4.					2,070 hrs.; $116,085.60[16].	

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collections of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: July 11, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–16899 Filed 7–15–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12965–002]

Wickiup Hydro Group, LLC; Notice of Schedule Change

On June 27, 2016, the Commission issued a "Notice of Teleconference to Discuss Endangered Species Act Consultation" for the Wickiup Dam Hydroelectric Project, FERC Project No. 12965. This teleconference has been rescheduled due to unforeseen scheduling conflicts to August 1, 2016 at 1:00 p.m. Pacific Daylight Time (4:00 p.m. Eastern Daylight Time). Please email Karen Sughrue at *karen.sughrue@ferc.gov* to RSVP.

Dated: July 11, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–16898 Filed 7–15–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP16–3–000 and CP16–3–001]

Texas Eastern Transmission, LP; Notice of Schedule for Environmental Review of the Access South, Adair Southwest, and Lebanon Extension Projects

On October 8, 2015, Texas Eastern Transmission, LP (Texas Eastern) filed an application requesting a Certificate of Public Convenience and Necessity pursuant to Section 7(c) of the Natural Gas Act to construct, operate, and maintain pipeline loops, install additional compression, and allow for reverse flow capabilities. The proposed projects, known as Access South, Adair Southwest, and the Lebanon Extension Projects would enable Texas Eastern to transport up to an additional 622,000 dekatherms per day of natural gas on its mainline system from Uniontown, Pennsylvania to points in Ohio, Kentucky, and Mississippi.

On October 22, 2015, the Federal Energy Regulatory Commission (Commission or FERC) issued its Notice of Application for the projects. Among other things, the Notice of Application alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a federal authorization within 90 days of the date of issuance of the Commission staff's Environmental Assessment (EA) for the projects. This instant notice identifies the FERC staff's planned schedule for the completion of the EA for the projects.

---

[13] The estimates for cost per hour (for salary plus benefits) are derived from the Bureau of Labor and Statistics' figures for May 2015 (at *http://www.bls.gov/oes/current/naics2_22.htm#11-0000* and benefits [updated March 10, 2016] at *http://www.bls.gov/news.release/ecec.nr0.htm*), as follows:

- $62.16/hour for salary plus benefits [based on the average for an electrical engineer (code 17–2071, at $64.20/hour), a first-line supervisor of forestry workers (code 45–1011, at $33.34/hour), and a manager (code 11–0000, at $88.94/hour)]
- $31.76/hour, salary plus benefits for an information and record clerk (code 43–4000).

[14] The Order in Docket No. RD16–4 does not modify the following requirements. However, due to normal fluctuations in industry, the number of respondents (TOs and GOs), in the submittal to OMB will be updated as follows.

- The Quarterly Reporting (Compliance 1.4) is required of 102 respondents (94 GOs and 8 Regional Entities), rather than 96 respondents.
- The requirements for Annual Vegetation Inspection Document (M6), annual vegetation work plan (M7), evidence of management of vegetation (M1 and M2), confirmed vegetation condition (M4), and corrective action (M5) are required of 94 respondents (rather than 88).

[15] We estimate a total of 414 respondents (320 TOs and 94 GOs) are affected.

[16] This is the estimate for Year 1 (including one-time implementation cost plus ongoing record retention costs). In subsequent years, only the record retention costs ($13,148.64, annual total for all respondents) will continue.

For the submittal to OMB (available in *reginfo.gov*), the one-time implementation burden and cost (which will be completed in Year 1) will be averaged over Years 1–3.

Schedule for Environmental Review

Issuance of EA—August 8, 2016
90-day Federal Authorization Decision Deadline—November 6, 2016

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the projects' progress.

Project Description

The projects would include (1) construction and maintenance of approximately 15.8 miles of 36-inch-diameter pipeline at three locations in Meigs and Monroe Counties, Ohio and 0.5 mile of 16-inch-diameter replacement pipeline within its existing right-of-way in Attala County, Mississippi; (2) installation of a new 16,875 horsepower compressor unit at an existing compressor station in Tompkinsville, Kentucky; and (3) modification of 12 existing compressor stations to allow for reverse flow capabilities in Pennsylvania, Ohio, Kentucky, Tennessee, Alabama, and Mississippi.

Background

On August 11, 2015, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the Planned Access South, Adair Southwest, and the Lebanon Extension Projects and Request for Comments on Environmental Issues* (NOI). The NOI was issued during the pre-filing review of the projects in Docket No. PF15–17–000 and was sent to affected landowners; federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers.

In response to the NOI, the Commission received environmental comments from the Ohio Department of Natural Resources, the U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers, a landowner, and combined comments from the Allegheny Defense Project, Buckeye Forest Council, Center for Biological Diversity, Freshwater Accountability Project, Heartwood, Kentucky Heartwood, and the Ohio Valley Environmental Coalition. The primary issues raised by the commentors included location of pipeline on an affected landowner's property; federally-listed threatened and endangered species; state-listed endangered species; migratory birds; permitting requirements; minimization and avoidance of impacts on streams and wetlands; direct, indirect and cumulative project impacts; connected actions; forest fragmentation; and noise.

On May 17, 2016, the Commission issued a *Supplemental Notice of Intent to Prepare an Environmental Assessment for the Proposed Access South, Adair Southwest, and the Lebanon Extension Projects and Request for Comments on Environmental Issues* (Supplemental NOI). The Supplemental NOI was sent to landowners within one half mile of the compressor stations who had not been included in Texas Eastern's original landowner list. In response to the Supplemental NOI, we received one comment from the U.S. Fish and Wildlife Service stating that it had no comments on the projects.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Additional information about the project is available from the Commission's Office of External Affairs at (866) 208–FERC or on the FERC Web site (*www.ferc.gov*). Using the "eLibrary" link, select "General Search" from the eLibrary menu, enter the selected date range and "Docket Number" excluding the last three digits (*i.e.*, CP16–3), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: July 12, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–16900 Filed 7–15–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Staff Attendance at the Southwest Power Pool Regional Entity Trustee, Members' Committee and Board of Directors' Meetings

The Federal Energy Regulatory Commission (Commission) hereby gives notice that members of its staff may attend the meetings of the Southwest Power Pool, Inc. Regional Entity Trustee (RE), Members' Committee and Board of Directors as noted below. Their attendance is part of the Commission's ongoing outreach efforts.

All meetings will be held at the Rushmore Plaza Holiday Inn, 505 North Fifth St., Rapid City, SD 57701. The hotel phone number is (605) 348–4000. All meetings are Mountain Time.

SPP RE

July 25, 2016 (7:30 a.m.–12:00 p.m.)

SPP Members/Board of Directors

July 25, 2016 (12:00 p.m.–5:00 p.m.)
July 26, 2016 (8:00 a.m.–12:00 p.m.)

The discussions may address matters at issue in the following proceedings:

Docket No. ER11–1844, *Midcontinent Independent System Operator, Inc.*
Docket No. EL12–60, *Southwest Power Pool, Inc., et al.*
Docket No. ER12–959, *Southwest Power Pool, Inc.*
Docket No. ER12–1179, *Southwest Power Pool, Inc.*
Docket No. ER12–1586, *Southwest Power Pool, Inc.*
Docket No. EL15–66, *Southern Company Services, et al.* v. *Midcontinent Independent System Operator, Inc.*
Docket No. EL15–77, *Morgan Stanley Capital Group Inc.* v. *Midcontinent Independent System Operator, Inc.*
Docket No. ER14–1183, *Southwestern Electric Power Company*
Docket No. ER14–2445, *Midcontinent Independent System Operator, Inc.*
Docket No. ER14–2850, *Southwest Power Pool, Inc.*
Docket No. ER15–1499, *Southwest Power Pool, Inc.*
Docket No. ER15–1775, *Southwest Power Pool, Inc.*
Docket No. ER15–1777, *Southwest Power Pool, Inc.*
Docket No. ER15–1943, *Southwest Power Pool, Inc.*
Docket No. ER15–1976, *Southwest Power Pool, Inc.*
Docket No. ER15–2028, *Southwest Power Pool, Inc.*
Docket No. ER15–2069, *Northwestern Corporation*

Docket No. ER15–2115, *Southwest Power Pool, Inc.*
Docket No. ER15–2265, *Southwest Power Pool, Inc.*
Docket No. ER15–2324, *Southwest Power Pool, Inc.*
Docket No. ER15–2347, *Southwest Power Pool, Inc.*
Docket No. ER15–2351, *Southwest Power Pool, Inc.*
Docket No. ER15–2356, *Southwest Power Pool, Inc.*
Docket No. EC16–53, *South Central MCN, LLC*
Docket No. EL16–20, *Grid Assurance LLC*
Docket No. EL16–70, *Cottonwood Wind Project, LLC* v. *Nebraska Public Power District*
Docket No. ER16–13, *Southwest Power Pool, Inc.*
Docket No. ER16–204, *Southwest Power Pool, Inc.*
Docket No. ER16–209, *Southwest Power Pool, Inc.*
Docket No. ER16–228, *Southwest Power Pool, Inc.*
Docket No. ER16–791, *Southwest Power Pool, Inc.*
Docket No. ER16–829, *Southwest Power Pool, Inc.*
Docket No. ER16–846, *Southwest Power Pool, Inc.*
Docket No. ER16–862, *Southwest Power Pool, Inc.*
Docket No. ER16–863, *Southwest Power Pool, Inc.*
Docket No. ER16–932, *Southwest Power Pool, Inc.*
Docket No. ER16–1086, *Southwest Power Pool, Inc.*
Docket No. ER16–1211, *Midcontinent Independent System Operator, Inc.*
Docket No. ER16–1286, *Southwest Power Pool, Inc.*
Docket No. ER16–1305, *Southwest Power Pool, Inc.*
Docket No. ER16–1351, *Westar Energy, Inc.*
Docket No. ER16–1355, *Westar Energy, Inc.*
Docket No. ER16–1314, *Southwest Power Pool, Inc.*
Docket No. ER16–1341, *Southwest Power Pool, Inc.*
Docket No. ER16–1544, *Southwest Power Pool, Inc.*
Docket No. ER16–1546, *Southwest Power Pool, Inc.*
Docket No. ER16–1605, *Southwestern Electric Power Company*
Docket No. ER16–1618, *Southwest Power Pool, Inc.*
Docket No. ER16–1676, *Southwest Power Pool, Inc.*
Docket No. ER16–1709, *Southwest Power Pool, Inc.*
Docket No. ER16–1710, *Southwest Power Pool, Inc.*
Docket No. ER16–1711, *Southwest Power Pool, Inc.*
Docket No. ER16–1712, *Southwest Power Pool, Inc.*
Docket No. ER16–1713, *Southwest Power Pool, Inc.*
Docket No. ER16–1715, *Southwest Power Pool, Inc.*
Docket No. ER16–1772, *Public Service Company of Colorado*
Docket No. ER16–1774, *Southwest Power Pool, Inc.*
Docket No. ER16–1797, *Midcontinent Independent System Operator, Inc.*
Docket No. ER16–1799, *Southwest Power Pool, Inc.*
Docket No. ER16–1812, *Southwestern Electric Power Company*
Docket No. ER16–1814, *Southwest Power Pool, Inc.*
Docket No. ER16–1826, *Southwest Power Pool, Inc.*
Docket No. ER16–1905, *Southwest Power Pool, Inc.*
Docket No. ER16–1912, *Southwest Power Pool, Inc.*
Docket No. ER16–1945, *Southwest Power Pool, Inc.*
Docket No. ER16–1951, *Southwest Power Pool, Inc.*
Docket No. ER16–1959, *Southwest Power Pool, Inc.*
Docket No. ER16–1989, *Southwest Power Pool, Inc.*

These meetings are open to the public.

For more information, contact Patrick Clarey, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (317) 249–5937 or *patrick.clarey@ferc.gov.*

Dated: July 11, 2016.

Kimberly D. Bose,
Secretary.

[FR Doc. 2016–16897 Filed 7–15–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG16–126–000.
Applicants: McHenry Battery Storage, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of McHenry Battery Storage, LLC.
Filed Date: 7/8/16.
Accession Number: 20160708–5176.
Comments Due: 5 p.m. ET 7/29/16.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2474–014.
Applicants: Sierra Pacific Power Company.
Description: Compliance filing: Market-Based Rate Tariff Volume No. 7 SPPC to be effective 6/9/2016.
Filed Date: 7/8/16.
Accession Number: 20160708–5185.
Comments Due: 5 p.m. ET 7/29/16.

Docket Numbers: ER10–2475–014.
Applicants: Nevada Power Company.
Description: Compliance filing: Market-Based Rate Tariff, Volume No. 11 to be effective 6/9/2016..
Filed Date: 7/8/16.
Accession Number: 20160708–5184.
Comments Due: 5 p.m. ET 7/29/16.

Docket Numbers: ER12–1266–006.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Compliance filing: 2016–07–08 Order 745–719 True-up Filing to be effective 6/1/2012.
Filed Date: 7/8/16.
Accession Number: 20160708–5191.
Comments Due: 5 p.m. ET 7/29/16.

Docket Numbers: ER12–2261–007.
Applicants: Russell City Energy Company, LLC.
Description: Notification of Change in Status of Russell City Energy Company, LLC.
Filed Date: 7/8/16.
Accession Number: 20160708–5229.
Comments Due: 5 p.m. ET 7/29/16.

Docket Numbers: ER16–1062–001.
Applicants: MidAmerican Energy Company.
Description: Compliance filing: MidAmerican Energy Company Offer of Settlement to be effective 5/1/2016.
Filed Date: 7/11/16.
Accession Number: 20160711–5000.
Comments Due: 5 p.m. ET 8/1/16.

Docket Numbers: ER16–1062–002.
Applicants: MidAmerican Energy Company.
Description: Compliance filing: Motion for Interim Rates to be effective 8/1/2016.
Filed Date: 7/11/16.
Accession Number: 20160711–5001.
Comments Due: 5 p.m. ET 8/1/16.

Docket Numbers: ER16–1301–001.
Applicants: ISO New England Inc., Emera Maine.
Description: Compliance filing: Emera Maine Compliance Filing—Docket No. ER16–1301–000 to be effective 6/1/2016.
Filed Date: 7/11/16.
Accession Number: 20160711–5162.
Comments Due: 5 p.m. ET 8/1/16.

Docket Numbers: ER16–1371–002.
Applicants: 63SU 8ME LLC.
Description: Notice of Change in Status of 63SU 8ME LLC.

Filed Date: 7/11/16.
Accession Number: 20160711–5149.
Comments Due: 5 p.m. ET 8/1/16.

Docket Numbers: ER16–2167–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 2880R1 Rattlesnake Creek Wind Project GIA to be effective 6/10/2016.
Filed Date: 7/8/16.
Accession Number: 20160708–5174.
Comments Due: 5 p.m. ET 7/29/16.

Docket Numbers: ER16–2168–000.
Applicants: Pacific Gas and Electric Company.
Description: § 205(d) Rate Filing: Interim Transmission Access Charge Balancing Account Adjustment (TACBAA) 2016 to be effective 10/1/2016.
Filed Date: 7/8/16.
Accession Number: 20160708–5192.
Comments Due: 5 p.m. ET 7/29/16.

Docket Numbers: ER16–2169–000.
Applicants: Algonquin SKIC 20 Solar, LLC.
Description: Baseline eTariff Filing: Application for Initial Tariff to be effective 7/14/2016.
Filed Date: 7/8/16.
Accession Number: 20160708–5193.
Comments Due: 5 p.m. ET 7/29/16.

Docket Numbers: ER16–2171–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Cancellation: Notice of Cancellation of WMPA SA No. 3439, Queue No. Y1–027 to be effective 5/26/2016.
Filed Date: 7/11/16.
Accession Number: 20160711–5061.
Comments Due: 5 p.m. ET 8/1/16.

Docket Numbers: ER16–2172–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2016–07–11_SA 2926 GRE—Oliver Wind III FCA (C023) to be effective 7/12/2016.
Filed Date: 7/11/16.
Accession Number: 20160711–5071.
Comments Due: 5 p.m. ET 8/1/16.

Docket Numbers: ER16–2173–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2016–07–11_SA 2927 Duke Energy Business Services—Duke Energy Indiana GIA (J453) to be effective 7/12/2016.
Filed Date: 7/11/16.
Accession Number: 20160711–5078.
Comments Due: 5 p.m. ET 8/1/16.

Docket Numbers: ER16–2174–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Cancellation: Notice of Cancellation of WMPA SA No. 3251, Queue No. W3–025 and X1–077 to be effective 8/22/2016.
Filed Date: 7/11/16.
Accession Number: 20160711–5164.
Comments Due: 5 p.m. ET 8/1/16.

Docket Numbers: ER16–2175–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2016–07–11_2nd Quarter MISO Tariff Clean-Up Filing to be effective 7/12/2016.
Filed Date: 7/11/16.
Accession Number: 20160711–5168.
Comments Due: 5 p.m. ET 8/1/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 11, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–16877 Filed 7–15–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CD16–15–000]

City of Sheridan, WY; Notice of Preliminary Determination of a Qualifying Conduit Hydropower Facility and Soliciting Comments and Motions To Intervene

On July 6, 2016, the City of Sheridan, WY filed a notice of intent to construct a qualifying conduit hydropower facility, pursuant to section 30 of the Federal Power Act (FPA), as amended by section 4 of the Hydropower Regulatory Efficiency Act of 2013 (HREA). The proposed Beckton Hall Road PRV Vault Project would have an installed capacity of 240 kilowatts (kW) and would be located within the Beckton Hall Road PRV Vault, which is part of the City of Sheridan's existing raw water transmission system. The project would be located near the City of Sheridan in Sheridan County, Wyoming.

Applicant Contact: Dan Roberts, City of Sheridan, 55 Grinnell Plaza, Sheridan, WY 82801, Phone No. (307) 675–4233.

FERC Contact: Robert Bell, Phone No. (202) 502–6062, email: *robert.bell@ferc.gov.*

Qualifying Conduit Hydropower Facility Description: The proposed project would consist of: (1) A proposed 240-kW turbine placed inside a 30-inch-diameter pipeline, with the facility entirely housed within the Beckton Hall Road PRV Vault, and (2) appurtenant facilities. The proposed project would have an estimated annual generating capacity of 836.5 megawatt-hours.

A qualifying conduit hydropower facility is one that is determined or deemed to meet all of the criteria shown in the table below.

TABLE 1—CRITERIA FOR QUALIFYING CONDUIT HYDROPOWER FACILITY

Statutory provision	Description	Satisfies (Y/N)
FPA 30(a)(3)(A), as amended by HREA	The conduit is a tunnel, canal, pipeline, aqueduct, flume, ditch, or similar manmade water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.	Y
FPA 30(a)(3)(C)(i), as amended by HREA	The facility is constructed, operated, or maintained for the generation of electric power and uses for such generation only the hydroelectric potential of a non-federally owned conduit.	Y
FPA 30(a)(3)(C)(ii), as amended by HREA.	The facility has an installed capacity that does not exceed 5 megawatts	Y

TABLE 1—CRITERIA FOR QUALIFYING CONDUIT HYDROPOWER FACILITY—Continued

Statutory provision	Description	Satisfies (Y/N)
FPA 30(a)(3)(C)(iii), as amended by HREA.	On or before August 9, 2013, the facility is not licensed, or exempted from the licensing requirements of Part I of the FPA.	Y

Preliminary Determination: Based upon the above criteria, Commission staff has preliminarily determined that the proposal satisfies the requirements for a qualifying conduit hydropower facility under 16 U.S.C. 823a, and is exempted from the licensing requirements of the FPA.

Comments and Motions to Intervene: The deadline for filing comments contesting whether the facility meets the qualifying criteria is 45 days from the issuance date of this notice.

The deadline for filing motions to intervene is 30 days from the issuance date of this notice.

Anyone may submit comments or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210 and 385.214. Any motions to intervene must be received on or before the specified deadline date for the particular proceeding.

Filing and Service of Responsive Documents: All filings must (1) bear in all capital letters the "COMMENTS CONTESTING QUALIFICATION FOR A CONDUIT HYDROPOWER FACILITY" or "MOTION TO INTERVENE," as applicable; (2) state in the heading the name of the applicant and the project number of the application to which the filing responds; (3) state the name, address, and telephone number of the person filing; and (4) otherwise comply with the requirements of sections 385.2001 through 385.2005 of the Commission's regulations.[1] All comments contesting Commission staff's preliminary determination that the facility meets the qualifying criteria must set forth their evidentiary basis.

The Commission strongly encourages electronic filing. Please file motions to intervene and comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Locations of Notice of Intent: Copies of the notice of intent can be obtained directly from the applicant or such copies can be viewed and reproduced at the Commission in its Public Reference Room, Room 2A, 888 First Street NE., Washington, DC 20426. The filing may also be viewed on the web at *http://www.ferc.gov/docs-filing/elibrary.asp* using the "eLibrary" link. Enter the docket number (*e.g.,* CD16–15–000) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659.

Dated: July 12, 2016.

Kimberly Bose,

Secretary.

[FR Doc. 2016–16896 Filed 7–15–16; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2016–0346; FRL–9949–14–OAR]

RIN 2060–AS30

Oil and Natural Gas Sector: Request for Information, Emerging Technologies

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for information.

SUMMARY: The Environmental Protection Agency (EPA) is issuing this request for information to the public to obtain information about monitoring, detection of fugitive emissions, and alternative mitigation approaches in the oil and natural gas sector.

DATES: Responses must be received on or before November 15, 2016.

ADDRESSES: Submit your information, identified by Docket ID No. EPA–HQ–OAR–2016–0346, to the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the online instructions for submitting responses. Once submitted, responses cannot be edited or withdrawn. The EPA may publish any response received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional information on submission of CBI can be found below in this document. Multimedia submissions (audio, video, etc.) must be accompanied by a written response. The written response is considered the official response and should include discussion of all points you wish to make. The EPA will generally not consider information or content located outside of the primary submission (*i.e.,* on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

Docket. All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy at the U.S. Environmental Protection Agency, EPA Docket Center, EPA WJC West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For further information about this action, contact Mr. Matthew Witosky, Sector Policies and Programs Division (E143–

---

[1] 18 CFR 385.2001–2005 (2015).

05), Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number: (919) 541–2865; facsimile number: (919) 541–3740; email address: *witosky.matthew@epa.gov*. For further information on the EPA's oil and natural gas sector regulatory program, contact Mr. Bruce Moore, Sector Policies and Programs Division (E143–05), Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number: (919) 541–5460; facsimile number: (919) 541–3470; email address: *moore.bruce@epa.gov*. For additional contact information, see the following **SUPPLEMENTARY INFORMATION** section.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Who may be interested in this request?

This request may be of interest to the categories and entities listed in Table 1:

TABLE 1—INDUSTRIAL SOURCE CATEGORIES POTENTIALLY INTERESTED IN THIS ACTION

Category	NAICS code[1]	Examples of industrial entities
Industry	211111	Crude Petroleum and Natural Gas Extraction.
	211112	Natural Gas Liquid Extraction.
	221210	Natural Gas Distribution.
	486110	Pipeline Distribution of Crude Oil.
	486210	Pipeline Transportation of Natural Gas.
Federal government		Not affected.
State/local/tribal government		Potentially interested.

[1] North American Industry Classification System.

This table is not intended to be exhaustive, but rather is meant to provide a guide for readers regarding entities that may desire to submit information responsive to this request. If you have any questions, consult either the air permitting authority for the entity, your EPA Regional representative as listed in 40 CFR 60.4 (General Provisions), or the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

B. What should I consider as I prepare my information and responses to the EPA?

Do not submit information containing CBI to the EPA through *http://www.regulations.gov* or email. Send or deliver information identified as CBI only to the following address: OAQPS Document Control Officer (C404–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention: Docket ID No. EPA–HQ–OAR–2016–0346. Clearly mark the part or all of the information that you claim to be CBI. For CBI in a disk or CD–ROM that you mail to the EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the information that includes information claimed as CBI, a copy of the information that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. Send or deliver information identified as CBI only to the following address: OAQPS Document Control Officer (C404–02), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA–HQ–2016–0346.

II. Background

On June 3, 2016, the EPA published a final rule titled "Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources," 81 FR 35824 (June 3, 2016). These new source performance standards (NSPS), at 40 CFR part 60, subpart OOOOa, set standards for both greenhouse gases (GHGs) and volatile organic compounds (VOC).

While a great deal of information is available on the oil and natural gas industry and has to date provided a strong technical foundation to support the Agency's recent actions, the EPA is seeking additional information now of a broader perspective. This additional information may be key in addressing emissions from existing oil and natural gas sources under section 111(d) of the Clean Air Act (CAA). The EPA has taken the first step toward obtaining such information, issuing the first draft of an Information Collection Request (ICR) requiring owners/operators to provide information that may enable the development of effective standards for this industry under CAA section 111(d). The EPA published the first draft of the ICR June 3, 2016, for public comment (81 FR 35763).

Recognizing that technology used to detect, measure, and mitigate emissions is rapidly developing, the EPA is issuing this request for information, inviting all parties to provide information on innovative technologies to accurately detect, measure, and mitigate emissions from the oil and natural gas industry.

For example, the EPA is aware of efforts to foster development and use of advanced monitoring and leak detection equipment, generally similar to optical gas imaging required in the 2016 NSPS. The Agency is requesting information related to these efforts. The EPA seeks to take advantage of the new knowledge being generated by research and focused activities such as the Department of Energy's Advanced Research Projects Agency-Energy (ARPA–E) and other similar programs that are developing innovative monitoring, detection, and mitigation technologies. While final results are not yet available from some projects, such as those funded under ARPA–E, the EPA is interested in learning about works-in-progress that may lead to advanced monitoring techniques, devices or systems appropriate for the dynamic and complex oil and natural gas sector.

The EPA also is seeking information on how these advanced monitoring technologies would be broadly applicable to existing sources. For example, research may be developing monitoring systems that provide coverage across emission points or equipment in a way that was not previously possible, thus enabling a different approach to setting standards.

The EPA is also seeking information to advance mitigation opportunities. The EPA is particularly interested in information on technologies that could allow for effective emissions controls at well sites or other co-located facilities.

Parties may respond to this request for information with published or unpublished papers, technical information, data, or any other information they consider responsive to this request.

In addition to consideration of the information we hope to receive in response to this request, the EPA intends to provide an opportunity to further engage with stakeholders on these subjects. An event, such as the Natural Gas STAR Annual Implementation Workshop, tentatively scheduled for early 2017, may be a valuable forum for this exchange of information. Specific information regarding an event will be made available in the coming months.

The EPA is providing a 120-day period for the public to submit the requested information. While the EPA will not respond to all submissions, we may contact respondents for further information or data.

Dated: July 8, 2016.

Janet G. McCabe,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 2016–16927 Filed 7–15–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9949–20–OA]

Notification of a Public Teleconference of a Work Group Under the Auspices of the Chartered Science Advisory Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces a public teleconference of a Work Group under the auspices of the Chartered Science Advisory Board to gather and review information on shipboard ballast water treatment system efficacy and related conclusions in the 2011 SAB report, Efficacy of Ballast Water Treatment Systems: A Report by the EPA Science Advisory Board.

DATES: The public teleconference for the Work Group of the Chartered SAB will be conducted on Friday, August 12, 2016, from 12:00 p.m. to 4:00 p.m. (Eastern Time).

Location: The public teleconference will be conducted by telephone only.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing to obtain information concerning the public teleconference may contact Mr. Thomas Carpenter, Designated Federal Officer (DFO), EPA Science Advisory Board Staff Office (1400R), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; by telephone/voice mail at (202) 564–4885 or at *carpenter.thomas@epa.gov.* General information about the SAB as well as any updates concerning the teleconference announced in this notice may be found on the EPA Web site at *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION: The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDDAA), codified at 42 U.S.C. 4365, to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a federal advisory committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. At the request of the SAB, a Work Group composed of a subset of SAB members will review the underlying data on ballast water treatment efficacy to assist the SAB in considering information regarding conclusions about shipboard treatment efficacy in the SAB report, Efficacy of Ballast Water Treatment Systems: A Report by the Science Advisory Board (EPA–SAB–11–009). The Work Group will gather and review information, analyze the report's underlying data and related conclusions and develop recommendations for deliberation by the Chartered Science Advisory Board at a future meeting. The SAB is not seeking new data regarding ballast water treatment system efficacy and will focus its inquiry on analyzing the data underlying the report and the related conclusions. The SAB Staff Office notes that neither the Federal Advisory Committee Act (FACA) nor EPA policy requires meetings of Work Groups under the auspices of a chartered federal advisory committee to provide notice or conduct public meetings. Public notice of this meeting of the Work Group is being provided to assist the Work Group in obtaining public comment from interested parties on the topic under consideration.

Availability of Meeting Materials: The agenda and materials in support of this teleconference will be available on the EPA Web site at *http://www.epa.gov/sab* in advance of the teleconference.

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office.

Federal advisory committees and panels, including scientific advisory committees, provide independent advice to EPA. Members of the public can submit comments for a federal advisory committee to consider as it develops advice for EPA. Input from the public to the SAB will have the most impact if it provides specific scientific or technical information or analysis for SAB panels to consider or if it relates to the clarity or accuracy of the technical information. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a teleconference will be limited to three minutes. Each person making an oral statement should consider providing written comments as well as their oral statement so that the points presented orally can be expanded upon in writing. Interested parties should contact Mr. Thomas Carpenter, DFO, in writing (preferably via email) at the contact information noted above, by August 4, 2016 to be placed on the list of public speakers. *Written Statements:* Written statements should be supplied to the DFO, preferably via email, at the contact information noted above one week before the teleconference so that the information may be made available to the Board members for their consideration. It is the SAB Staff Office general policy to post written comments on the Web page for the advisory meeting or teleconference. Submitters are requested to provide an unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its Web sites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the SAB Web site. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities, please contact Mr. Thomas Carpenter at (202) 564–4885 or *carpenter.thomas@epa.gov.* To request accommodation of a disability, please contact Mr. Carpenter preferably at least ten days prior to the teleconference to give EPA as much time as possible to process your request.

Dated: July 11, 2016.

Thomas H. Brennan,

Deputy Director, EPA Science Advisory Staff Office.

[FR Doc. 2016–16929 Filed 7–15–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to all Interested Parties of the Termination of the Receivership of 10438, Plantation Federal Bank, Pawleys Island, South Carolina

Notice is hereby given that the Federal Deposit Insurance Corporation ("FDIC") as Receiver for Plantation Federal Bank, Pawleys Island, South Carolina ("the Receiver") intends to terminate its receivership for said institution. The FDIC was appointed receiver of Plantation Federal Bank on April 27, 2012. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this Notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this Notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: July 13, 2016.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2016–16889 Filed 7–15–16; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination; 10469 1st Regents Bank Andover, Minnesota

The Federal Deposit Insurance Corporation (FDIC), as Receiver for 10469 1st Regents Bank, Andover, Minnesota (Receiver) has been authorized to take all actions necessary to terminate the receivership estate of 1st Regents Bank (Receivership Estate); the Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective July 01, 2016 the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: July 13, 2016.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2016–16890 Filed 7–15–16; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination; 10376 First Peoples Bank, Port Saint Lucie, Florida

The Federal Deposit Insurance Corporation (FDIC), as Receiver for 10376 First Peoples Bank, Port Saint Lucie, Florida (Receiver) has been authorized to take all actions necessary to terminate the receivership estate of First Peoples Bank (Receivership Estate); the Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective July 1, 2016, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: July 13, 2016.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2016–16888 Filed 7–15–16; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

[NOTICE 2016–05]

Filing Dates for the Pennsylvania Special Election in the 2nd Congressional District

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special election.

SUMMARY: Pennsylvania has scheduled a special general election on November 8, 2016, to fill the U.S. House of Representatives seat in the 2nd Congressional District vacated by Representative Chaka Fattah.

Committees required to file reports in connection with the Special General Election on November 8, 2016, shall file a 12-day Pre-General Report, and a 30-day Post-General Report.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth S. Kurland, Information Division, 999 E Street NW., Washington, DC 20463; Telephone: (202) 694–1100; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Principal Campaign Committees

All principal campaign committees of candidates who participate in the Pennsylvania Special General Election shall file a 12-day Pre-General Report on October 27, 2016; and a Post-General Report on December 8, 2016. (See chart below for the closing date for each report.)

Note that these reports are in addition to the campaign's committee's regular quarterly filings. (See chart below for the closing date for each report).

Unauthorized Committees (PACs and Party Committees)

Political committees filing on a quarterly basis in 2016 are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the Pennsylvania Special General Election by the close of books for the applicable report(s). (See chart below for the closing date for each report.)

Committees filing monthly that make contributions or expenditures in connection with the Pennsylvania Special General Election will continue to file according to the monthly reporting schedule.

Additional disclosure information in connection with the Pennsylvania Special General Election may be found on the FEC Web site at *http://www.fec.gov/info/report_dates.shtml.*

Disclosure of Lobbyist Bundling Activity

Principal campaign committees, party committees and Leadership PACs that are otherwise required to file reports in connection with the special general election must simultaneously file FEC Form 3L if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registrant PACs that aggregate in excess of the $17,600 during the special election reporting periods. (See chart below for closing date of each period.) 11 CFR 104.22(a)(5)(v), (b).

CALENDAR OF REPORTING DATES FOR PENNSYLVANIA SPECIAL GENERAL ELECTION

[Committees involved in the Special General (11/08/16) must file]

Report	Close of books [1]	Reg./cert. & overnight mailing deadline	Filing deadline
Pre-General	10/19/16	10/24/16	10/27/16
Post-General	11/28/16	12/08/16	12/08/16
Year-End	12/31/16	01/31/17	01/31/17

[1] The reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered as a political committee up through the close of books for the first report due.

On behalf of the Commission.

Matthew S. Petersen,

Chairman, Federal Election Commission.

[FR Doc. 2016–16821 Filed 7–15–16; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL MARITIME COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Federal Maritime Commission.

TIME AND DATE: July 20, 2016—10 a.m.

PLACE: 800 North Capitol Street NW., First Floor Hearing Room, Washington, DC.

STATUS: The meeting will be held in Open Session.

MATTERS TO BE CONSIDERED:

Open Session

1. International Affairs Briefings:
   a. Korea/U.S. Bilateral Discussions
   b. 9th Annual U.S./China Maritime Consultative Meeting
   c. 8th U.S./China Transportation Forum
   d. Panama Canal Expansion
2. Supply Chain Innovation Teams Update
3. Docket No. 16–04: Proposed Rule on Ocean Common Carrier and MTO Agreements
4. Docket No. 16–05: Proposed Rule on Service Contracts and NVOCC Service Arrangements

CONTACT PERSON FOR MORE INFORMATION: Karen V. Gregory, Secretary, (202) 523–5725.

Karen V. Gregory,

Secretary.

[FR Doc. 2016–16961 Filed 7–14–16; 11:15 am]

BILLING CODE 6731–AA–P

GENERAL SERVICES ADMINISTRATION

[Notice–ISP–2016–01; Docket No. 2016–002; Sequence No. 13]

Privacy Act of 1974; Notice of an Updated System of Records

AGENCY: Office of the Chief Information Officer, General Services Administration (GSA).

ACTION: Notice; System name change.

SUMMARY: GSA proposes a new system of records subject to the Privacy Act of 1974, as amended, 5 U.S.C. 552a.

DATES: *Effective:* August 17, 2016.

ADDRESSES: GSA Privacy Act Officer (ISP), General Services Administration, 1800 and F Street NW., Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Call or email the GSA Privacy Act Officer: telephone 571–388–6570; email *gsa.privacyact@gsa.gov.*

SUPPLEMENTARY INFORMATION: GSA proposes to establish a system of records subject to the Privacy Act of 1974, 5 U.S.C. 552a. The system provides an account to users that gives them control over how government agencies interact with them and their personal information. Agencies can build applications on top of the *USA.gov* platform that will streamline and improve citizen interactions with government. Applications will leverage data and resources associated with the user's account, including personal information. The information in the system is contributed voluntarily by the user and cannot be accessed by government without explicit consent of the user, except as provided in this notice. Information is not shared between government agencies, except when the user gives explicit consent to share his or her information, except as provided in this notice.

Dated: July 7, 2016.

Pranjali Desai,

Director, Policy and Compliance Division, Office of the Chief Information Security Officer, General Services Administration.

GSA/OCSIT–1

SYSTEM NAME:

USA.gov

SYSTEM LOCATION:

The system is maintained for GSA under contract. Contact the System Manager for additional information.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Anyone is able to create an account.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include, but are not limited to: (1) Biographical data such as name, address, email, phone number, birth date, and basic demographic information such as whether or not the individual is married, a veteran, a small business owner, a parent or a student; (2) information stored by third-party applications that have been authorized by the user to access their account using one or more of USA.gov's programmatic interfaces, such as notifications, tasks, or events; (3) a history of third-party applications interactions with a user's account so the user can monitor how their account is being accessed by third-parties. Use of the system, and contribution of personal information, is completely voluntary.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

E-Government Act of 2002 (Pub. L. 107–347, 44 U.S.C. 3501 note)

PURPOSES:

To enable users to control how government interacts with them and their personal information, and to aid and assist users in interacting with government.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Users interacting with third-party applications, such as those developed by government agencies, may be asked to authorize the third-party application to access their system resources, such as their personal profile information. If a user authorizes use of his or her information, the third-party application will be given programmatic access to the user's account resources. All interactions with a user's account, such as reading personal profile information, are logged and are auditable by the user. Users can revoke a third-party application's authorization to access their account resources at any time. System information may be accessed by system managers, technical support and designated analysts in the course of their official duties. Information from this system also may be disclosed as a routine use:

a. In any legal proceeding, where pertinent, to which GSA, a GSA employee, or the United States is a party before a court or administrative body.

b. To a Federal, State, local, or foreign agency responsible for investigating, prosecuting, enforcing, or carrying out a statute, rule, regulation, or order when GSA becomes aware of a violation or potential violation of civil or criminal law or regulation.

c. To a Member of Congress or his or her staff on behalf of, and at the request of, the individual who is the subject of the record.

d. To the Office of Personnel Management (OPM), the Office of Management and Budget (OMB), and the Government Accountability Office (GAO) in accordance with their responsibilities for evaluating Federal programs.

e. To an expert, consultant, or contractor of GSA in the performance of a Federal duty to which the information is relevant.

f. To the National Archives and Records Administration (NARA) for records management purposes.

g. To a Federal agency in connection with the hiring or retention of an employee; the issuance of a security clearance; the reporting of an investigation; the letting of a contract; or the issuance of a grant, license, or other benefit to the extent that the information is relevant and necessary to a decision.

h. To appropriate agencies, entities, and persons when (1) the Agency suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) The Agency has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by GSA or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with GSA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYTEM:

STORAGE:

All records are stored electronically in a database. Personally identifiable information is encrypted.

RETRIEVABILITY:

Records are retrieved using an authorization protocol. A user of the system grants explicit authorization to an application or government agency to access his or her profile. The system generates a unique token that authorizes only that application or agency to access the user's account. The system correlates the unique token, ensures that both the agency and the user involved are correct, and returns the information to the agency.

SAFEGUARDS:

System records are safeguarded in accordance with the requirements of the Privacy Act. Access to physical infrastructure is limited to authorized individuals with passwords; the database is maintained behind a firewall certified in accordance with National Institute of Standards and Technology standards and information in the database is encrypted.

SAFEGUARDS AGAINST UNAUTHORIZED ACCESS:

Records are safeguarded in accordance with Privacy Act requirements. Access is limited to authorized individuals and protected with two-factor authentication, databases are behind a firewall. Personally Identifiable Information is encrypted at rest, and all transmissions of any information over external networks are encrypted. All passwords, encryption algorithms and firewalls are compliant with National Institute of Standards and Technology standards.

RETENTION AND DISPOSAL:

System records are retained and disposed of according to GSA records maintenance and disposition schedules and the requirements of the National Archives and Records Administration. Users may delete their own information from the system at any time.

SYSTEM MANAGER AND ADDRESS:

Director, USA.gov, General Services Administration, 1800 F Street NW., Washington, DC 20405.

NOTIFICATION PROCEDURE:

Individuals or users maintain their own information. Inquires can be made via the Web site at *https://www.usa.gov,* or at the above address under 'System Manager and Address'.

RECORD ACCESS PROCEDURES:

Individuals or users wishing to access their own records may do so by password.

CONTESTING RECORD PROCEDURES:

Individuals or users of the system may amend or delete their own records online.

RECORD SOURCE CATEGORIES:

The sources for information in the system are the individuals (or system users) for whom the records are maintained and third-party applications which the user has authorized to contribute information to his or her account.

[FR Doc. 2016–16868 Filed 7–15–16; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–16–1011; Docket No. CDC–2016–0061]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a request for extension of an approved information collection entitled *Emergency Epidemic*

Investigation Data Collections (OMB Control No. 0920–1011). CDC will use the information collected to identify prevention and control measures in response to outbreaks and other public health events.

DATES: Written comments must be received on or before September 16, 2016.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2016–0061 by any of the following methods:

Federal eRulemaking Portal: Regulations.gov. Follow the instructions for submitting comments.

Mail: Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *Regulations.gov*, including any personal information provided. For access to the docket to read background documents or comments received, go to *Regulations.gov*.

Please note: All public comment should be submitted through the Federal eRulemaking portal (*Regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Proposed Project

Emergency Epidemic Investigation Data Collections (OMB control number 0920–1011), Expiration 03–31–2017–Extension—Division of Scientific Education and Professional Development, Center for Surveillance, Education, and Laboratory Services, Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC previously conducted Emergency Epidemic Investigations (EEIs) under Office of Management and Budget (OMB) control number 0920–0008. In 2013, CDC received OMB approval (OMB control number 0920–1011) for a new OMB generic clearance for a 3-year period to collect vital information during EEIs in response to urgent outbreaks or events (*i.e.,* natural, biological, chemical, nuclear, radiological) characterized by undetermined agents, undetermined sources, undetermined transmission, or undetermined risk factors. CDC seeks OMB approval for an extension of this generic clearance (OMB control number 0920–1011) for a 3-year period.

Supporting effective emergency epidemic investigations is one of the most important ways that CDC protects the health of the public. CDC is frequently called upon to conduct EEIs at the request of local, state, or international health authorities seeking support to respond to urgent outbreaks or urgent public health-related events. In response to external partner requests, CDC provides necessary epidemiologic support to identify the agents, sources, modes of transmission, or risk factors to effectively implement rapid prevention and control measures to protect the public's health. Data collection is a critical component of the epidemiologic support provided by CDC; data are analyzed to determine the agents, sources, modes of transmission, or risk factors so that effective prevention and control measures can be implemented. During an unanticipated outbreak or event, immediate action by CDC is necessary to minimize or prevent public harm. The legal justification for EEIs are found in the Public Health Service Act (42 U.S.C. Sec. 301[241](a).

Successful investigations are dependent on rapid and flexible data collection that evolves during the investigation and is customized to the unique circumstances of each outbreak or event. Data collection elements will be those necessary to identify the agents, sources, mode of transmission, or risk factors. Examples of potential data collection methods include telephone or face-to-face interview; email, web or other type of electronic questionnaire; paper-and-pencil questionnaire; focus groups; medical record review; laboratory record review; collection of clinical samples; and environmental assessment. Respondents will vary depending on the nature of the outbreak or event; examples of potential respondents include health care professionals, patients, laboratorians, and the general public. Participation in EEIs is voluntary and there are no anticipated costs to respondents other than their time. CDC will use the information gathered during EEIs to rapidly identify and effectively implement measures to minimize or prevent public harm.

CDC projects 60 EEIs in response to outbreaks or events characterized by undetermined agents, undetermined sources, undetermined transmission, or undetermined risk factors annually. The projected average number of respondents is 200 per EEI, for a total of 12,000 respondents. CDC estimates the average burden per response is 0.5 hours and each respondent will be asked to respond once. Therefore, the total estimated annual burden hours are 6,000. These estimates are based on the reported burden for EEIs that have been performed during the previous two years.

OMB approval is requested for three years. Participation is based on previous Emergency Epidemic Investigations. There are no costs to respondents.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Total number of responses per respondent	Average burden per response (in hours)	Total burden hours (in hours)
Emergency Epidemic Investigation Participants.	Emergency Epidemic Investigation Data Collection Instruments.	12,000	1	30/60	6,000
Total	....	....	....	....	6,000

Jeffrey M. Zirger,

Acting Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2016–16882 Filed 7–15–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 81 FR 30307–30308, dated May 16, 2016) is amended to reflect the reorganization of the Office of the Director, Centers for Disease Control and Prevention.

Section C–B, Organization and Functions, is hereby amended as follows:

After the title and the mission and function statements for the *Office of the Associate Director for Laboratory Science and Safety (CAC)* insert the following:

Office of the Director (CAC1). (1) Provides scientific, technical, and managerial expertise and leadership in the development and enhancement of laboratory science and safety programs; (2) oversees and monitors the development, implementation, and evaluation of the laboratory safety and quality management programs across CDC; (3) advises on policy, partnerships, and issues management matters; (4) advises on matters related to internal and external public health communications; (5) provides oversight to ensure CDC compliance with regulations for select agents and toxins, and the safe possession, use and transfer of select agents and toxins; and (6) leads responses to laboratory incidents and emergencies.

Office of Laboratory Science (CACB). (1) Provides high-level oversight and coordination of laboratory quality and safety training programs at all CDC campuses; (2) develops agency-level plans, policies, procedures and guidelines for implementation of quality management programs within Centers, Institute, and Offices (CIOs); (3) assures regulatory compliance and tracking for CDC's portfolio of laboratory developed tests; and (4) provides oversight of the catalog of laboratory safety training activities and tracking agency-wide progress and compliance with laboratory safety training requirements.

Office of Laboratory Safety (CACC). (1) Provides high-level oversight and coordination of laboratory safety at all CDC campuses; (2) develops and assures effectiveness of agency-level plans, policies, manuals and tools for implementation of laboratory safety standards; (3) assures regulatory compliance for biological safety, chemical safety, radiation safety and the possession, use and transport of select agents and toxins; and (4) provides expertise and consultation for biological safety, chemical safety and radiation safety.

Sherri Berger,

Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2016–16884 Filed 7–15–16; 8:45 am]

BILLING CODE 4160–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30-Day–16–16AVB]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

US Zika Pregnancy Registry—New—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

In May 2015, the World Health Organization reported the first local transmission of Zika virus in the Western Hemisphere, with autochthonous cases identified in Brazil. As of March 16, 2016, local transmission has been identified in at least 32 countries or territories in the Americas. Further spread to other countries in the region is likely. Local vectorborne transmission of Zika virus has not been documented in the 50 U.S. states or the District of Columbia, but has occurred in U.S. territories, including in Puerto Rico, the U.S. Virgin Islands, and American Samoa. However, Zika virus infections have been reported in travelers returning to the United States from areas with active Zika virus transmission. Zika virus infection also has occurred through sexual transmission, which may pose an additional risk to non-travelling pregnant women whose partners may have traveled to areas at high risk for Zika virus acquisition. With the ongoing outbreak in the Americas, the number of Zika virus disease cases among travelers returning to the United States likely will increase, and sexual transmission from male travelers to their sex partners in the United States will likely continue to occur. In addition, mosquito-borne local transmission may occur in states where Aedes species mosquitoes are present.

In some Brazilian states where Zika virus transmission has occurred, there has been an increase in cases of infants born with microcephaly. Zika virus infections have been confirmed in several infants with microcephaly and in fetal losses in women infected during pregnancy. In addition to microcephaly, a range of other problems have been detected among fetuses and infants infected with Zika virus before birth, such as absent or poorly developed brain structures, defects of the eye, hearing deficits, and impaired growth. The Ministry of Health in Brazil, with support from the Pan American Health Organization (PAHO), the U.S. Centers for Disease Control and Prevention (CDC), and other partners, is investigating the association between Zika virus infection and microcephaly, as well as other adverse pregnancy and infant outcomes.

As part of the public health response to the Zika virus disease outbreak, CDC will conduct supplemental surveillance of antenatal diagnostic testing and clinical outcomes among pregnant women with laboratory evidence of Zika virus or unspecified flavivirus infection and their infants through the U.S. Zika Pregnancy Registry. It is anticipated that the Registry will provide critical information to direct CDC clinical recommendations and public health guidance and messages.

The objective of this Registry is to monitor the frequency and types of pregnancy and infant outcomes following Zika virus infection during pregnancy, so as to inform ongoing response efforts for this Zika virus disease outbreak, including recommendations for clinical care, planning for services for pregnant women and infants affected by Zika virus, and improved prevention of Zika virus infections during pregnancy.

There are no costs to the respondents other than their time. The total estimated annual burden hours are 2,167.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)
State, Territorial and Local Health Departments.	Maternal Health History Form	100	10	30/60
	Supplemental Imaging Form	100	10	10/60
	Laboratory Results Form	100	10	15/60
Clinicians and Other Providers	Assessment at Delivery Form	100	10	30/60
	Infant Health Follow-Up Form	100	30	15/60

Jeffrey M. Zirger,

Acting Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2016–16872 Filed 7–15–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC–2016–0064; 60 Day–16–0969]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. This notice invites comment on "Monitoring Changes in Attitudes and Practices among Family Planning Providers and Clinics," a survey to assess dissemination and use of guidance documents about the use of contraceptives and the delivery of quality family planning services.

DATES: Written comments must be received on or before September 16, 2016.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2016–0064 by any of the following methods:

Federal eRulemaking Portal: Regulations.gov. Follow the instructions for submitting comments.

Mail: Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *Regulations.gov*, including any personal information provided. For access to the docket to read background documents or comments received, go to *Regulations.gov*.

Please note: All public comment should be submitted through the Federal eRulemaking portal (*Regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov*.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Proposed Project

Monitoring Changes in Attitudes and Practices among Family Planning Providers and Clinics (OMB No. 0920–0969, exp. 5/31/2014)—Reinstatement with Change—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Division of Reproductive Health (DRH) at the Centers for Disease Control and Prevention (CDC) develops and disseminates guidance to improve the use of contraceptives and the delivery of quality family planning services. The *U.S. Medical Eligibility Criteria for Contraceptive Use* (US MEC), the first national guidance on family planning containing evidence-based recommendations for the safe use of contraceptive methods for women and men with specific characteristics and medical conditions, was published by the CDC in June 2010. The *US Selected Practice Recommendations for Contraceptive Use* (US SPR), which provides guidance on how to use contraceptive methods safely and effectively once they are deemed to be medically appropriate, was published by the CDC in June 2013. *Providing Quality Family Planning Services* (QFP), which provides evidence-informed recommendations to improve client care and service delivery infrastructure to support the provision of quality family planning services to women and men of reproductive age in the United States, was published by CDC and the Office of Population Affairs (OPA) in April 2014. The US MEC, US SPR, and QFP have been widely disseminated to health care providers and other constituents via professional organizations, federal program grantees, scientific and programmatic meetings, scientific manuscripts, online resources, and other avenues.

In 2009–2010, CDC collected baseline information related to diffusion and use of the US MEC (OMB No. 0920–0008). In 2013–2014, CDC collected follow-up information related to the US MEC and baseline information related to the US SPR and QFP (OMB No. 0920–0969). These information collections provided useful knowledge about differences in attitudes and practices of family planning providers based on varying levels of key demographic characteristics (*e.g.*, years since completion of formal health care training), and identification of attitudes not consistent with current scientific evidence (*e.g.*, misconceptions that intrauterine devices are not safe for adolescents or nulliparous women). CDC used findings to develop educational materials and opportunities for health care providers.

In 2017, in collaboration with the HHS Office of Population Affairs (OPA), CDC plans to request a reinstatement of OMB No. 0920–0969, "Monitoring Changes in Attitudes and Practices among Family Planning Providers and Clinics." The information collection will allow CDC and OPA to assess changes in attitudes and practices among family planning providers and clinics after the release of these three national guidance documents, and to identify persisting misconceptions and/or gaps in clinic-level practices (*e.g.*, low provision of preconception health services) that may warrant continued and more tailored dissemination and educational activities. Specifically, the survey will allow CDC and OPA to improve family planning-related public health practice by (1) understanding the current use of contraception guidance in practice and valued sources of contraceptive information, including awareness and use of the US MEC, US SPR and QFP; (2) describing current attitudes and practices among family planning providers and clinics related to recommendations included in the US MEC, US SPR, and QFP and assessing changes from baseline; and (3) identifying targeted training needs in use of guidance and family planning service delivery (*e.g.*, provider tools, continuing education modules).

In 2017–2018, CDC plans to administer a follow-up survey to a sample of 10,000 private- and public-sector family planning providers and clinic administrators in the United States. The design, methodology, and analytic approach are based on methods previously approved for the 2013–2014 survey. Minor changes to survey content will be made to eliminate unnecessary questions, add new questions of interest, and improve formatting, usability, and data quality. As in 2013–2014, different versions of the survey instrument will be administered to providers and clinic administrators. The estimated burden per response for providers is 15 minutes and has not changed since the previous OMB approval. The estimated burden per response for administrators will be reduced from 40 minutes to 25 minutes.

Private-sector physicians will be randomly selected from sampling frames with individual-level information on physicians. To reach public-sector providers and clinic administrators, publicly funded clinics will be randomly selected; one provider and the clinic administrator will be asked to complete surveys at sampled clinics. Specifically, surveys will be completed by: (a) 2,000 private-sector office-based physicians (*i.e.,* those specializing in obstetrics/gynecology, family medicine, and adolescent medicine), sampled from the American Medical Association Physician Masterfile; (b) 2,000 providers from Title X clinics, sampled from a database of publicly funded family planning clinics; (c) 2,000 providers from non-Title X clinics, sampled from a database of publicly funded family planning clinics; (d) 2,000 clinic administrators from Title X clinics, sampled from a database of publicly funded family planning clinics; and (e) 2,000 clinic administrators from non-Title X clinics, sampled from a database of publicly funded family planning clinics.

Each sampled provider and clinic will receive a mailed survey package. For private-sector family planning providers, each mailed survey package will include a single survey to be completed by the provider. For public-sector clinics, each mailed survey package will include two surveys—one to be completed by a randomly selected family planning provider at the clinic, and the second to be completed by the clinic administrator. Each mailed survey will be accompanied by a postage-paid return envelope. Individuals will also be given the option to complete the survey online via a password protected web-based data collection system.

OMB approval is requested for one year. Participation is voluntary and there are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number responses per respondent	Average burden per response (in hr)	Total burden (in hr)
Office-based physicians (private sector).	2017 Survey of Health Care Providers.	2,000	1	15/60	500
Title X clinic providers (public sector)	2017 Survey of Health Care Providers.	2,000	1	15/60	500
Non-Title X publicly funded clinic providers (public sector).	2017 Survey of Health Care Providers.	2,000	1	15/60	500
Title X clinic administrators (public sector).	2017 Survey of Administrators of Publicly-Funded Health Centers that Provide Family Planning.	2,000	1	25/60	834
Non-Title X publicly funded clinic administrators (public sector).	2017 Survey of Administrators of Publicly-Funded Health Centers that Provide Family Planning.	2,000	1	25/60	834
Total	....	....	....	....	3,168

Jeffrey M. Zirger,

Acting Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2016–16874 Filed 7–15–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC–2016–0063; 60Day–16–16AVC]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. This notice invites comment on "Generic Clearance for CDC/ATSDR Formative Research and Tool Development". This information collection request is designed to allow CDC to conduct formative research information collection activities used to inform aspects of surveillance, communications, health promotion, and research project development.

DATES: Written comments must be received on or before September 16, 2016.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2016–0063 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *Regulations.gov,* including any personal information provided. For access to the docket to read background documents or comments received, go to *Regulations.gov.*

Please note: *All public comment should be submitted through the Federal eRulemaking portal (Regulations.gov) or by U.S. mail to the address listed above.*

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Proposed Project

Generic Clearance for CDC/ATSDR Formative Research and Tool Development (CDC)

Background and Brief Description

The Centers for Disease Control and Prevention (CDC) requests approval for a new generic clearance for CDC/ATSDR Formative Research and Tool Development. This information collection request is designed to allow CDC to conduct formative research information collection activities used to inform many aspects of surveillance, communications, health promotion, and research project development at CDC. Formative research is the basis for developing effective strategies including communication channels, for influencing behavior change. It helps researchers identify and understand the characteristics—interests, behaviors and needs—of target populations that influence their decisions and actions.

Formative research is integral in developing programs as well as improving existing and ongoing programs. Formative research looks at the community in which a public health intervention is being or will be implemented and helps the project staff understand the interests, attributes and needs of different populations and persons in that community. Formative research occurs before a program is designed and implemented, or while a program is being conducted.

At CDC formative research is necessary for developing new programs or adapting programs that deal with the complexity of behaviors, social context, cultural identities, and health care that underlie the epidemiology of diseases and conditions in the U.S. CDC conducts formative research to develop public-sensitive communication messages and user friendly tools prior to developing or recommending interventions, or care. Sometimes these studies are entirely behavioral but most often they are cycles of interviews and focus groups designed to inform the development of a product.

Products from these formative research studies will be used for prevention of disease. Findings from these studies may also be presented as evidence to disease-specific National Advisory Committees, to support revisions to recommended prevention and intervention methods, as well as new recommendations.

Much of CDC's health communication takes place within campaigns that have fairly lengthy planning periods—timeframes that accommodate the standard Federal process for approving data collections. Short term qualitative interviewing and cognitive research techniques have previously proven invaluable in the development of scientifically valid and population-appropriate methods, interventions, and instruments.

This request includes studies investigating the utility and acceptability of proposed sampling and recruitment methods, intervention contents and delivery, questionnaire domains, individual questions, and interactions with project staff or electronic data collection equipment. These activities will also provide information about how respondents answer questions and ways in which question response bias and error can be reduced.

This request also includes collection of information from public health programs to assess needs related to initiation of a new program activity or expansion or changes in scope or implementation of existing program activities to adapt them to current needs. The information collected will be used to advise programs and provide capacity-building assistance tailored to identify needs.

Overall, these development activities are intended to provide information that will increase the success of the surveillance or research projects through increasing response rates and decreasing response error, thereby decreasing future data collection burden to the public. The studies that will be covered under this request will include one or more of the following investigational modalities: (1) Structured and qualitative interviewing for surveillance, research, interventions and material development, (2) cognitive interviewing for development of specific data collection instruments, (3) methodological research (4) usability testing of technology-based instruments and materials, (5) field testing of new methodologies and materials, (6) investigation of mental models for health decision-making, to inform health communication messages, and (7) organizational needs assessments to support development of capacity. Respondents who will participate in individual and group interviews (qualitative, cognitive, and computer assisted development activities) are selected purposively from those who respond to recruitment advertisements.

In addition to utilizing advertisements for recruitment, respondents who will participate in research on survey methods may be selected purposively or systematically from within an ongoing surveillance or research project.

Participation of respondents is voluntary.

There is no cost to participants other than their time. The total estimated annual burden is 8,000 hours.

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average hours per response	Total response burden (hrs.)
General public and health care providers.	Screener	4,000	1	10/60	667
	Consent Forms	2,000	1	10/60	333
	Interview	2,000	1	1	2,000
	Focus group interview	2,000	1	2	4,000
	Survey	2,000	1	30/60	1,000
Total					8,000

Jeffrey M. Zirger,

Acting Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2016–16873 Filed 7–15–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Privacy Act of 1974; System of Records Notice

AGENCY: Department of Health and Human Services (HHS), Administration for Children and Families (ACF), Office of Refugee Resettlement (ORR).

ACTION: Notice to establish five new and delete one Privacy Act systems of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a), the Office of Refugee Resettlement (ORR) within HHS' Administration for Children and Families (ACF) is establishing five new systems of records: 09–80–0321 ORR Division of Children's Services Records; 09–80–0325 ORR Internet Refugee Arrivals Data System (iRADS); 09–80–0327 ORR Repatriation Program Records; 09–80–0329 ORR Unaccompanied Refugee Minors Records; and 09–80–0388 ORR Refugee Suicide Database. ORR is deleting one system of records, 09–60–0217 ORR Cuban Refugee Data System, which is being replaced by the new iRADS system of records.

Four of the five new systems of records are "mixed," in that they contain records pertaining to both U.S. persons (*i.e.*, individuals who are citizens of the United States or aliens lawfully admitted for permanent residence in the United States) and non-U.S. persons.

The Privacy Act applies only to U.S. persons (citizens of the United States or aliens lawfully admitted for permanent residence in the United States). As a matter of discretion, ORR will treat information that it maintains in its mixed systems of records as being subject to the provisions of the Privacy Act, regardless of whether the information relates to U.S. persons covered by the Privacy Act.

This policy implements a 1975 Office of Management and Budget (OMB) recommendation to apply, as a matter of policy, the administrative provisions of the Privacy Act to records about non-U.S. persons in mixed systems of records (referred to as the non-U.S. persons policy).

DATES: This Notice will become effective 30 days after publication, unless the Office of Refugee Resettlement makes changes based on comments received. Written comments should be submitted on or before the effective date.

ADDRESSES: The public should address written comments to Gary Cochran, Senior Agency Officer for Privacy, by mail at Administration for Children and Families, Mary E. Switzer Building, 330 C Street SW., Washington, DC 20201, or by email at *gary.cochran@acf.hhs.gov*.

FOR FURTHER INFORMATION CONTACT: Questions should be directed to the contact person for the system in question:

1. *09–80–0321 ORR Division of Children's Services Records*
   Jallyn Sualog, Administration for Children and Families, ORR, Mary E. Switzer Building, 330 C Street SW., Washington, DC 20201; Email: *Jallyn.Sualog@acf.hhs.gov*.
2. *09–80–0325 ORR Internet Refugee Arrivals Data System (iRADS)*
   Joann Simmons, Administration for Children and Families, ORR, Mary E. Switzer Building, 330 C Street SW., Washington, DC 20201; Email: *joann.simmons@acf.hhs.gov*.
3. *09–80–0327 ORR Repatriation Program Records*
   Elizabeth Russell, Administration for Children and Families, ORR, Mary E. Switzer Building, 330 C Street SW., Washington, DC 20201; Email: *Elizabeth.russell@acf.hhs.gov*.
4. *09–80–0329 ORR Unaccompanied Refugee Minors Records*
   Jallyn Sualog, Administration for Children and Families, ORR, Mary E. Switzer Building, 330 C Street SW., Washington, DC 20201; Email: *Jallyn.Sualog@acf.hhs.gov*
5. *09–80–0388 ORR Refugee Suicide Database*
   Dr. Curi Kim, Administration for Children and Families, ORR, Mary E. Switzer Building, 330 C Street SW., Washington, DC 20201; Email: *curi.kim@acf.hhs.gov*.

SUPPLEMENTARY INFORMATION

I. Background on Five New Systems of Records

The five new systems of records established in this Notice are maintained by the Office of Refugee Resettlement (ORR) within HHS' Administration for Children and Families (ACF); ORR plans, develops, and directs the implementation of a domestic resettlement assistance program for refugees and other eligible populations. ORR provides resources to assist these populations with successful integration into American society. ORR's social services help refugees become self-sufficient as quickly as possible after their arrival in the United States. ORR also provides guidance, resources, and oversight for specific health challenges including medical assistance, initial health screenings, and consultations. ORR also oversees the Unaccompanied Children Program, providing care for unaccompanied children without lawful immigration status, and the U.S. Repatriation Program, providing loans to eligible repatriates referred from the U.S. Department of State.

One of the five new systems of records, 09–80–0327 ORR Repatriation Program Records, contains information about U.S. persons only (*i.e.*, U.S. citizens and their dependents receiving temporary assistance who have been identified as having returned to the U.S. or been brought from a foreign country to the U.S. because of destitution, illness, war, threat of war, or a similar crisis). The remaining four systems of records are ''mixed,'' in that they contain, or could contain, records pertaining to both U.S. persons and non-U.S. persons. The System of Records Notices (SORNs) published in this Notice for the four mixed systems include a statement to this effect, in the ''Categories of Individuals'' section:

> The Privacy Act applies only to U.S. persons (citizens of the United States or aliens lawfully admitted for permanent residence in the United States). As a matter of discretion, ORR will treat information that it maintains in its mixed systems of records as being subject to the provisions of the Privacy Act, regardless of whether or not the information relates to U.S. persons covered by the Privacy Act.

This statement implements a 1975 Office of Management and Budget (OMB) recommendation to apply, as a matter of discretion, the administrative provisions of the Privacy Act to records about non-U.S. persons in mixed systems of records (referred to as the non-U.S. persons policy).

II. Deletion of One Existing System of Records

The existing system of records that is being deleted, 09–60–0217 ORR Cuban Refugee Data System, covered only records pertaining to Cuban refugees. That system has been subsumed into a broader system of records, 09–80–0325 ORR Internet Refugee Arrivals Data System (iRADS), covering refugees from all countries and other individuals eligible for ORR-funded benefits and services.

III. The Privacy Act

The Privacy Act (5 U.S.C. 552a) governs the means by which the U.S. Government collects, maintains, and uses information about individuals in a system of records. A ''system of records'' is a group of any records under the control of a federal agency from which information about an individual is retrieved by the individual's name or other personal identifier. The Privacy Act requires each agency to publish in the **Federal Register** a system of records notice (SORN) identifying and describing each system of records the agency maintains, including the purposes for which the agency uses information about individuals in the system, the routine uses for which the agency discloses such information outside the agency, and how individual record subjects can exercise their rights under the Privacy Act (*e.g.*, to determine if the system contains information about them).

As required by the Privacy Act (5 U.S.C. 552a(r)), HHS has sent a report of this new system of records to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB).

Dated: July 11, 2016.

Robert Carey,

Director, Office of Refugee Resettlement.

The following system of records is hereby deleted:

- 09–60–0217 Cuban Refugee Data System.

System of Records Notices (SORNs) are published below for five new systems of records:

System Number:

09–80–0321.

SYSTEM NAME:

ORR Division of Children's Services Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Division of Children's Services (DCS), Office of Refugee Resettlement (ORR), Administration for Children and Families (ACF), Department of Health and Human Services (HHS), Mary E. Switzer Building, 330 C Street Washington, DC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Unaccompanied children under ORR's care, unaccompanied children who receive an adjustment of status or become U.S. citizens, children of unaccompanied children, potential sponsors of the unaccompanied children, and members of potential sponsor's household, including both U.S. and non-U.S. citizens.

Unaccompanied children (UC) are children who have no lawful immigration status in the United States; have not attained 18 years of age; and with respect to whom (i) there is no parent or legal guardian in the United States; or (ii) no parent or legal guardian in the United States is available to provide care and physical custody.

The Privacy Act applies only to U.S. persons (citizens of the United States or aliens lawfully admitted for permanent residence in the United States). As a matter of discretion, ORR will treat information that it maintains in its mixed systems of records as being subject to the provisions of the Privacy Act, regardless of whether or not the information relates to U.S. persons covered by the Privacy Act. This implements a 1975 Office of Management and Budget (OMB) recommendation to apply, as a matter of policy, the administrative provisions of the Privacy Act to records about non-U.S. persons in mixed systems of records (referred to as the non-U.S. persons policy).

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of computerized indexing system data and case files:

- The computerized indexing system contains personal identification data, such as Alien Registration Number, Fingerprint Identification Number (''FINS'' number), and Social Security Number (SSN); date and place of birth; date and port of entry; apprehension date and location; manner of entry; apprehension field office; individual(s) apprehended with the unaccompanied child; attorney of record; juvenile/criminal history records; case disposition; significant incident reports; sponsor's biographical, financial and immigration status information; sponsor's household members' biographical information; and personal identification data of an unaccompanied child's potential sponsor, including the sponsor's biographical information (*e.g.*, name, date of birth, place of birth), financial information, immigration status information, household members' biographical information, SSN, phone number, address, criminal background and case disposition, and results of child abuse and neglect checks.
- The case file contains information that is pertinent to the care and placement of unaccompanied children, including biographical information on each unaccompanied child, such as birth and marriage certificates; various ORR forms and supporting documents (and attachments, *e.g.* photographs); incident reports; medical and dental records; mental health evaluations; case notes and records; clinical notes and records; immigration forms and notifications; attorney of record and legal papers; home studies and/or post-release service records on a sponsor of an unaccompanied child; family reunification information including the sponsors' individual and financial data; case disposition; correspondence; and

SSN; and juvenile/criminal history records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

6 U.S.C. 279; 8 U.S.C. 1232.

PURPOSE(S):

Records are used within HHS/ACF/ORR by DCS to provide a safe and appropriate environment for each unaccompanied child placed into ORR custody through his/her release to a family member or sponsor in the U.S., until he/she is removed to his/her home country by DHS immigration officials, until the child turns 18 years of age, or until the minor receives lawful immigration status.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These routine uses specify circumstances, in addition to those provided by statute in the Privacy Act of 1974, 5 U.S.C. 552a(b), under which ACF may release information from this system of records without the consent of the data subject. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible, including but not limited to ensuring that the purpose of the disclosure is compatible with the purpose for which the information was collected.

1. *Disclosure to an Attorney or Representative.* Information may be disclosed to an attorney or representative (as defined in 8 CFR 1.2) who is acting on behalf of an individual covered by this system of records in connection with any proceeding before the Department of Homeland Security or the Executive Office for Immigration Review; an attorney representing an unaccompanied child in a state court in a dependency hearing that may determine or alter the unaccompanied child's custody status or placement; or an attorney representing an unaccompanied child in a juvenile or criminal court in relation to criminal charges.

2. *Disclosure for Health and Safety.* Information such as health records related to communicable diseases or other illnesses that have the potential to affect public health and safety may be disclosed to any state or local health authorities, to ensure that all health issues potentially affecting public health and safety in the United States are being or have been, adequately addressed. Private health information not related to illnesses that affect public health and safety will remain confidential. This information may be disclosed for the purposes of coordinating medical and mental health evaluations, services, and care for unaccompanied alien children while in ORR care and custody. Information may be shared with a health provider to make age determinations for unaccompanied children.

3. *Disclosure to Protection and Advocacy Organization.* Information may be disclosed to a Protection or Advocacy organization when access is authorized and the request is appropriately made under the Protection and Advocacy for Individuals with Mental Illness Act, 42 U.S.C. 10801 *et seq.* Information may be disclosed to an HHS-appointed child advocate for the purpose of effectively advocating for the best interest of the child. Child advocates are granted access to this information under the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 section 235(c)(6), 8 U.S.C. 1232(c)(6).

4. *Disclosure to Plaintiffs' Counsel.* Information may be disclosed to plaintiffs' counsel as required under the settlement agreement in *Flores* v. *Reno,* Case No. CV85–4544–RJK (C.D. Cal. 1996); and *Perez-Olano* v. *Holder,* Case No. CV 5–3604 (C.D. Cal. 2010).

5. *Disclosure to Department of Homeland Security.* Information may be disclosed to the Department of Homeland Security for the purpose of adjudicating or deciding immigration relief, notification of admission/discharge information and forms, and reported escapes of an unaccompanied child from ORR custody; and for background check purposes to ensure safe releases.

6. *Disclosure for Law Enforcement or Child Welfare Purpose.* Information may be disclosed to the appropriate federal, state, local, tribal, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, if the information is relevant to a violation or potential violation of civil or criminal law or regulation within the jurisdiction of the receiving entity; and for background check purposes to ensure safe releases. Information may be shared with certain state and local agencies that provide child welfare services such as state licensing agencies, Child Protective Services, and education agencies such as state, county, or municipal schools for the purpose of protecting an unaccompanied child's health and welfare and background check purposes to ensure safe releases, as well as enrollment of an unaccompanied child in a school or educational program.

7. *Disclosure for Private Relief Legislation.* Information may be disclosed to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A 19.

8. *Disclosure to Congressional Office.* Information may be disclosed to a congressional office from the record of an individual in response to a written inquiry from the congressional office made at the written request of the individual.

9. *Disclosure to Department of Justice or in Proceedings.* Information may be disclosed to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which HHS is authorized to appear, when:

- HHS, or any component thereof; or
- any employee of HHS in his or her official capacity; or
- any employee of HHS in his or her individual capacity where the Department of Justice or HHS has agreed to represent the employee; or
- the United States, if HHS determines that litigation is likely to affect HHS or any of its components,

is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or HHS is deemed by HHS to be relevant and necessary to the litigation provided, however, that in each case it has been determined that the disclosure is compatible with the purpose for which the records were collected.

10. *Disclosure to Department of Justice for LOPC Facilitation.* Information may be disclosed to the Department of Justice, Executive Office for Immigration Review for purposes of collaboration in facilitating sponsors' participation in Legal Orientation Programs for Custodians (LOPCs) under the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 section 235(c)(4), 8 U.S.C. 1232(c)(4).

11. *Disclosure to the National Archives.* Information may be disclosed to the National Archives and Records Administration in records management inspections.

12. *Disclosure to Contractors, Grantees, and Others.* Information may be disclosed to contractors, grantees, consultants, or volunteers performing or working on a contract, service, grant, cooperative agreement, job, or memorandum of understanding, or other activity for HHS and who have a need to have access to the information in the performance of their duties or activities for HHS.

13. *Disclosure to Office of Personnel Management.* Information may be

disclosed to the Office of Personnel Management pursuant to that agency's responsibility for evaluation and oversight of federal personnel management.

14. Disclosure in Connection with Litigation. Information may be disclosed in connection with litigation or settlement discussions regarding claims by or against HHS, including public filing with a court, to the extent that disclosure of the information is relevant and necessary to the litigation or discussions.

15. Disclosure Incident to Requesting Information. Information may be disclosed (to the extent necessary to identify the individual, inform the source of the purpose of the request, and to identify the type of information requested), to any source from which additional information is requested when necessary to obtain information relevant to an agency decision concerning benefits.

16. Disclosure for Administrative Claims, Complaints, and Appeals. Information may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other person properly engaged in investigation or settlement of an administrative grievance, complaint, claim, or appeal filed by an employee, but only to the extent that the information is relevant and necessary to the proceeding. Agencies that may obtain information under this routine use include, but are not limited to, the Office of Personnel Management, Office of Special Counsel, Merit Systems Protection Board, Federal Labor Relations Authority, Equal Employment Opportunity Commission, and Office of Government Ethics.

17. Disclosure to State Refugee Coordinators. Information may be shared with State Refugee Coordinators for children in ORR care who are being transferred into the ORR's Unaccompanied Refugee Minors program for purposes of coordinating appropriate placement and services for the child. The State Refugee Coordinator refers to the individuals designated by a Governor or a State to be responsible for, and who is authorized to, ensure coordination of public and private resources in refugee resettlement.

18. Disclosure to other Federal Departments and Nongovernmental Organizations and Foreign Governments for Safe Repatriation of UC. Information may be disclosed to other federal agencies (such as the Department of State, Department of Justice, Department of Homeland Security), nongovernmental organizations and foreign governments as it relates to the safe repatriation of UC to their country of origin as directed under the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 section 235(a)(5), 8 U.S.C. 1232(a)(5).

19. Disclosure in the Event of a Security Breach. Information may be disclosed to appropriate federal agencies and Department contractors that have a need to know the information for the purpose of assisting the Department's efforts to respond to a suspected or confirmed breach of the security or confidentiality of information maintained in this system of records, provided the information disclosed is relevant and necessary for that assistance.

20. Disclosure for Cybersecurity Monitoring Purposes. Records may be disclosed to the U.S. Department of Homeland Security (DHS) if captured in an intrusion detection system used by HHS and DHS pursuant to a DHS cybersecurity program that monitors Internet traffic to and from federal government computer networks to prevent a variety of types of cybersecurity incidents.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM—

Storage: Computer records are stored on a computer network. Paper records are stored in file folders.

Retrievability: Records are retrieved by name or Alien Registration Number of the unaccompanied child; records are electronically retrieved from the web-based data management system using name, Alien Registration Number, or SSN of the party involved.

SAFEGUARDS:

Safeguards conform to the HHS Information Security Program, *http://www.hhs.gov/ocio/securityprivacy/index.html.*

RETENTION AND DISPOSAL:

Computerized indexing system records are retained permanently; they are offered to the National Archives every five years (see N1–292–90–04, item 15). Case files are retained for five years following receipt of the final progress report (see N1–292–90–4, item 34).

SYSTEM MANAGER AND ADDRESS:

Director, Division of Children Services, Office of Refugee Resettlement, Administration for Children and Families, Mary E. Switzer Building, 330 C Street SW., Washington, DC 20201.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the System Manager. The request should include the name, telephone number and/or email address, SSN or Alien Registration Number, and address of the individual, and the request must be signed. The requester's letter must provide sufficient particulars to enable the System Manager to distinguish between records on subject individuals with the same name. Verification of identity as described in HHS's Privacy Act regulations may be required. 45 CFR 5b.5

RECORD ACCESS PROCEDURES:

Individuals seeking access to a record about themselves in this system of records should address written inquiries to the System Manager. The request should include the name, telephone number and/or email address, SSN or Alien Registration Number, and address of the individual, and should be signed. The requester's letter must provide sufficient particulars to enable the System Manager to distinguish between records on subject individuals with the same name. Verification of identity as described in HHS's Privacy Act regulations may be required. 45 CFR 5b.5

CONTESTING RECORD PROCEDURES:

Individuals seeking to amend a record about themselves in this system of records should address the request for amendment to the System Manager. The request should (1) include the name, telephone number and/or email address, SSN or Alien Registration Number, and address of the individual, and should be signed; (2) identify the system of records that the individual believes includes his or her records or otherwise provide enough information to enable the identification of the individual's record; (3) identify the information that the individual believes in not accurate, relevant, timely, or complete; (4) indicate what corrective action is sought; and (5) include supporting justification or documentation for the requested amendment. Verification of identity as described in HHS's Privacy Act regulations may be required. 45 CFR 5b.5

RECORD SOURCE CATEGORIES:

Record subjects, family members, private individuals, private and public hospitals, doctors, law enforcement agencies and officials, private attorneys, facilities reports, third parties, foreign governments, other federal agencies, state and local governments, agencies and instrumentalities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

SYSTEM NUMBER:

09–80–0325.

SYSTEM NAME:

ORR Internet Refugee Arrivals Data System (iRADS).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of Refugee Resettlement (ORR), Administration for Children and Families (ACF), Department of Health and Human Services (HHS), Mary E. Switzer Building, 330 C Street SW., Washington, DC. A list of contractor sites where individually identifiable data are currently located is available upon request to the system manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records pertain to the following individuals:

- Individuals who are paroled as a refugee or asylee under 8 U.S.C. 1182(d)(5) [section 212(d)(5) of the Immigration and Nationality Act (INA)].
- Individuals admitted as a refugee under 8 U.S.C. 1157 (section 207 of INA).
- Individuals granted asylum under 8 U.S.C. 1158 (section 208 of INA).
- Cuban and Haitian entrants, in accordance with requirements in Public Law 97–35, title V, §§ 543(a)(2), 547 [8 U.S.C. 1522 (note)] and 45 CFR part 401.
- Certain Amerasians from Vietnam who are admitted to the U.S. as immigrants pursuant to 8 U.S.C. 1101 note (Amerasian Immigration).
- Iraqi or Afghan Special Immigrant Visa-holders admitted under the Consolidated Appropriations Act of 2008 (Pub. L. 110–161, Division G, Title V, Section 525) or the National Defense Authorization Act for FY 2008 (Pub. L. 110–181, Division A, Title XII, Section 1244).
- Certified victims of a severe form of human trafficking as defined under 22 U.S.C. 7105(b)(1)(c) (Trafficking Victims Protection Act of 2000).
- Individuals admitted for permanent residence, provided the individual previously held one of the statuses identified above.

The Privacy Act applies only to U.S. persons (citizens of the United States or aliens lawfully admitted for permanent residence in the United States). As a matter of discretion, ORR will treat information that it maintains in its mixed systems of records as being subject to the provisions of the Privacy Act, regardless of whether or not the information relates to U.S. persons covered by the Privacy Act. This implements a 1975 Office of Management and Budget (OMB) recommendation to apply, as a matter of policy, the administrative provisions of the Privacy Act to records about non-U.S. persons in mixed systems of records (referred to as the non-U.S. persons policy).

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of automated database records; data elements include but are not limited to: Alien Number, Full Name, Birth Date, Arrival Date or Date of Grant of Asylum, Immigration Status (Refugee, Asylee, etc), Marital Status, Age, Gender, Ethnicity (for populations other than Asylees), Full Address (City, State, Zip Code), County, Birth Country, Citizenship Country, Country of Origin, English Ability, Occupational Skills, Health Status, Administrative Data (*e.g.*, voluntary resettlement agency).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

8 U.S.C. 1521 *et seq.*

PURPOSE(S):

Records are used by HHS/ACF/ORR to generate data needed to allocate funds for Formula Social Services and Targeted Assistance grants according to statutory formulas established under 8 U.S.C. 1522(c)(1)(B) & (c)(2)(B); extract samples for the Annual Survey of Refugees, which collects information on the economic adjustment of refugees; and support other budget and grant requirements and data requests from within and outside ORR. This system of records does not collect new information but consolidates information on eligible populations obtained from other agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These routine uses specify circumstances, in addition to those provided by statute in the Privacy Act of 1974, 5 U.S.C. 552a(b), under which ACF may release information from this system of records without the consent of the data subject. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible, including but not limited to ensuring that the purpose of the disclosure is compatible with the purpose for which the information was collected.

1. *Disclosure for Law Enforcement Purpose.* Information may be disclosed to the appropriate federal, state, local, tribal, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, if the information is relevant to a violation or potential violation of civil or criminal law or regulation within the jurisdiction of the receiving entity.

2. *Disclosure for Private Relief Legislation.* Information may be disclosed to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A 19.

3. *Disclosure to Congressional Office.* Information may be disclosed to a congressional office from the record of an individual in response to a written inquiry from the congressional office made at the written request of the individual.

4. *Disclosure to Department of Justice or in Proceedings.* Information may be disclosed to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which HHS is authorized to appear, when:

- HHS, or any component thereof; or
- any employee of HHS in his or her official capacity; or
- any employee of HHS in his or her individual capacity where the Department of Justice or HHS has agreed to represent the employee; or
- the United States, if HHS determines that litigation is likely to affect HHS or any of its components,

is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or HHS is deemed by HHS to be relevant and necessary to the litigation provided, however, that in each case it has been determined that the disclosure is compatible with the purpose for which the records were collected.

5. *Disclosure to the National Archives.* Information may be disclosed to the National Archives and Records Administration in records management inspections.

6. *Disclosure to Contractor.* Information may be disclosed to a contractor performing or working on a contract for HHS and who has a need to have access to the information in the performance of its duties or activities for HHS.

7. *Disclosure for Administrative Claim, Complaint, and Appeal.*

Information may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other person properly engaged in investigation or settlement of an administrative grievance, complaint, claim, or appeal filed by an employee, but only to the extent that the information is relevant and necessary to the proceeding. Agencies that may obtain information under this routine use include, but are not limited to, the Office of Personnel Management, Office of Special Counsel, Merit Systems Protection Board, Federal Labor Relations Authority, Equal Employment Opportunity Commission, and Office of Government Ethics.

8. Disclosure in Connection with Litigation. Information may be disclosed in connection with litigation or settlement discussions regarding claims by or against HHS, including public filing with a court, to the extent that disclosure of the information is relevant and necessary to the litigation or discussions.

9. Disclosure Incident to Requesting Information. Information may be disclosed (to the extent necessary to identify the individual, inform the source of the purpose of the request, and to identify the type of information requested), to any source from which additional information is requested when necessary to obtain information relevant to an agency decision concerning benefits.

10. Disclosure in the Event of a Security Breach. Information may be disclosed to appropriate federal agencies and Department contractors that have a need to know the information for the purpose of assisting the Department's efforts to respond to a suspected or confirmed breach of the security or confidentiality of information maintained in this system of records, provided the information disclosed is relevant and necessary for that assistance.

11. Disclosure for Cybersecurity Monitoring Purposes. Records may be disclosed to the U.S. Department of Homeland Security (DHS) if captured in an intrusion detection system used by HHS and DHS pursuant to a DHS cybersecurity program that monitors Internet traffic to and from federal government computer networks to prevent a variety of types of cybersecurity incidents.

Information may also be disclosed from this system of records to parties outside HHS for any of the uses authorized directly in the Privacy Act at 5 U.S.C. 552a(b)(2) and (b)(4)–(11).

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM—

STORAGE:

Records are stored in a computer database operated by a contractor.

RETRIEVABILITY:

Records are retrieved by "A" (alien) number or by name, date of birth, or date of entry.

SAFEGUARDS:

Safeguards conform to the HHS Information Security Program, *http://www.hhs.gov/ocio/securityprivacy/index.html.*

RETENTION AND DISPOSAL:

Records are retained permanently; they are offered to the National Archives every five years (see N1–292–90–04, item 15).

SYSTEM MANAGER AND ADDRESS:

Division Director, Division of Budget Policy and Data Analysis, Office of Refugee Resettlement, Administration for Children and Families, Department of Health and Human Services, Mary E. Switzer Building, 330 C Street SW., Washington, DC 20201.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the System Manager. The request should include the name, telephone number and/or email address, Alien Number, and address of the individual, and the request must be signed. Verification of identity as described in HHS's Privacy Act regulations may be required. 45 CFR 5b.5

The requestor's letter must also provide sufficient particulars to enable ACF to distinguish between records on subject individuals with the same name.

RECORD ACCESS PROCEDURES:

Individuals seeking access to a record about themselves in this system of records should address written inquiries to the System Manager. The request should include the name, telephone number and/or email address, Alien Number, and address of the individual, and should be signed. Verification of identity as described in HHS's Privacy Act regulations may be required. 45 CFR 5b.5

The requestor's letter must also provide sufficient particulars to enable ACF to distinguish between records on subject individuals with the same name.

CONTESTING RECORD PROCEDURES:

Individuals seeking to amend a record about themselves in this system of records should address the request for amendment to the System Manager. The request should (1) include the name, telephone number and/or email address, Alien Number, and address of the individual, and should be signed; (2) provide the name or other information about the project that the individual believes contains his or her records; (3) identify the information that the individual believes is not accurate, relevant, timely, or complete; (4) indicate what corrective action is sought; and (5) include supporting justification or documentation for the requested amendment. Verification of identity as described in HHS's Privacy Act regulations may be required. 45 CFR 5b.5

RECORD SOURCE CATEGORIES:

Record subjects, Department grantees, and social service agencies. Refugee arrival data from the Department of State's Worldwide Refugee Arrivals Processing System (WRAPS); legacy refugee arrival data from the Department of State's Refugee Data Center; Department of Homeland Security (DHS) U.S. Citizenship and Immigration Services (USCIS) asylum corps grant data and I–730 asylee derivative data with some data elements provided by Customs and Border Protection; DHS/Customs and Border Protection (CBP) data regarding Cubans and Haitians entering the U.S. at land borders or Ports of Entry other than Miami, FL, as well as Iraqi and Afghan Special Immigrants (starting in FY 2008); the Department of Justice (DOJ) Executive Office of Immigration Review (EOIR) asylum grant data; the United States Conference of Catholic Bishops (USCCB) and Church World Services in Miami, FL data for Cuban and Haitian entrants and Havana parolees (including data on Cuban Medical Parolees) entering the U.S. through the Port of Miami; the I–643 form (OMB No. 1615–0070), completed by refugees and asylees, Cuban and Haitian entrants, and Amerasians and submitted to USCIS or ORR when filing an application for adjustment of status.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

SYSTEM NUMBER:

09–80–0327.

SYSTEM NAME:

ORR Repatriation Program Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of Refugee Resettlement (ORR), Administration for Children and Families (ACF), Department of Health and Human Services (HHS), Mary E. Switzer Building, 330 C Street SW., Washington, DC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. citizens and their dependents receiving temporary assistance who have been identified by the Department of State as having returned, or been brought from a foreign country to the U.S. because of destitution, illness, war, threat of war, or a similar crisis.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of case files, containing:

- Identifying information including but not limited to name, date of birth, place of birth, gender, Social Security Number (SSN), passport number, case number, citizenship, address;
- service information, including but not limited to type of case (settlement or exception), resettlement state, case activity (dates and notes);
- types of assistance requested, including but not limited to financial, food, travel, clothing, medical, other;
- types of assistance provided, including but not limited to identification numbers, service providers, cost information;
- medical information, including but not limited to diagnosis, prognosis, mental health status, hospitalization;
- next-of-kin information, including next of kin name, identification number, address, relationship, telephone numbers;
- repayment information, including but not limited to deferrals, extensions, referrals to collection agencies and Internal Revenue Service, payments; and
- travel plans, including but not limited to name of escort, destinations, flight numbers, dates of travel.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 1113 of the Social Security Act, 42 U.S.C. 1313 (Assistance for U.S. Citizens Returned from Foreign Countries) and 24 U.S.C. 321–329 (Hospitalization of mentally ill nationals returned from foreign countries).

PURPOSE(S):

Records are used by HHS/ACF/ORR to administer the United States Repatriation Program, which provides temporary assistance to U.S. citizens and their dependents who have been identified by the Department of State as having returned, or been brought from a foreign country to the U.S. because of destitution, illness, war, threat of war, or a similar crisis. Temporary assistance may include money payments, medical care, temporary billeting, transportation, and other goods and services necessary for the health or welfare of individuals (including guidance, counseling, and other welfare services), furnished to United States citizens and their dependents who are without available resources in the U.S. upon their arrival from abroad and for up to 90 days after their arrival, not exceeding 90 days as may be provided in regulations of the Secretary of HHS. All temporary assistance provided under the Program and allocable to individual recipients is repayable to the federal government. HHS' Program Support Center administers debt collection for these repayments.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These routine uses specify circumstances, in addition to those provided by statute in the Privacy Act of 1974, 5 U.S.C. 552a(b), under which ACF may release information from this system of records without the consent of the data subject. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible, including but not limited to ensuring that the purpose of the disclosure is compatible with the purpose for which the information was collected.

1. *Disclosure to Department of State.* Information may be disclosed to the Department of State in connection with determinations of eligibility, referral, planning, and provision of temporary assistance of or in cases referred to HHS.

2. *Disclosure to States.* Information may be disclosed to the states in connection with coordination and/or provision of temporary services for eligible repatriates.

3. *Disclosure to Service Provider.* Information may be disclosed to providers of services (*e.g.* community-based organizations, hospitals) and to local state institutions (*e.g.,* courts and social service agencies) that assist in coordination and/or the provision of temporary services.

4. *Disclosure to Agency for Temporary Services.* Information may be disclosed to other federal agencies and non-governmental agencies for planning or provision of temporary services to eligible repatriates.

Federal agencies include but are not limited to Department of State, Department of Defense, Department of Justice, Department of Homeland Security, Department of Housing and Urban Development, Federal Emergency Management Agency, Department of Agriculture, and United States Department of Transportation. Non-governmental agencies include but are not limited to American Red Cross and Salvation Army.

5. *Disclosure for Law Enforcement Purpose.* Information may be disclosed to the appropriate federal, state, local, tribal, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, if the information is relevant to a violation or potential violation of civil or criminal law or regulation within the jurisdiction of the receiving entity.

6. *Disclosure Incident to Requesting Information.* Information may be disclosed (to the extent necessary to identify the individual, inform the source of the purpose of the request, and to identify the type of information requested), to any source from which additional information is requested when necessary to obtain information relevant to an agency decision concerning retention of an employee or other personnel action (other than hiring), retention of a security clearance, the letting of a contract, or the issuance or retention of a grant, or other benefit.

7. *Disclosure for Employee Retention, Security Clearance, Contract, or Other Benefit.* Disclosure may be made to a federal, state, local, foreign, or tribal or other public authority of the fact that this system of records contains information relevant to the retention of an employee, the retention of a security clearance, the letting of a contract, or the issuance or retention of a license, grant, or other benefit. The other agency or licensing organization may then make a request supported by the written consent of the individual for the entire record if it so chooses. No disclosure will be made unless the information has been determined to be sufficiently reliable to support a referral to another office within HHS or to another federal agency for criminal, civil, administrative, personnel, or regulatory action.

8. *Disclosure for Private Relief Legislation.* Information may be disclosed to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A 19.

9. *Disclosure to Congressional Office.* Information may be disclosed to a congressional office from the record of an individual in response to a written

inquiry from the congressional office made at the written request of the individual.

10. Disclosure to Department of Justice or in Proceedings. Information may be disclosed to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which HHS is authorized to appear, when:

- HHS, or any component thereof; or
- any employee of HHS in his or her official capacity; or
- any employee of HHS in his or her individual capacity where the Department of Justice or HHS has agreed to represent the employee; or
- the United States, if HHS determines that litigation is likely to affect HHS or any of its components,

is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or HHS is deemed by HHS to be relevant and necessary to the litigation provided, however, that in each case it has been determined that the disclosure is compatible with the purpose for which the records were collected.

11. Disclosure to the National Archives. Information may be disclosed to the National Archives and Records Administration in records management inspections.

12. Disclosure to Contractors, Grantees, and Others. Information may be disclosed to contractors, grantees, consultants, or volunteers performing or working on a contract, service, grant, cooperative agreement, job, or other activity for HHS and who have a need to have access to the information in the performance of their duties or activities for HHS.

13. Disclosure for Administrative Claim, Complaint, and Appeal. Information may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other person properly engaged in investigation or settlement of an administrative grievance, complaint, claim, or appeal filed by an employee, but only to the extent that the information is relevant and necessary to the proceeding. Agencies that may obtain information under this routine use include, but are not limited to, the Office of Personnel Management, Office of Special Counsel, Merit Systems Protection Board, Federal Labor Relations Authority, Equal Employment Opportunity Commission, and Office of Government Ethics.

14. Disclosure to Office of Personnel Management. Information may be disclosed to the Office of Personnel Management pursuant to that agency's responsibility for evaluation and oversight of federal personnel management.

15. Disclosure in Connection with Litigation. Information may be disclosed in connection with litigation or settlement discussions regarding claims by or against HHS, including public filing with a court, to the extent that disclosure of the information is relevant and necessary to the litigation or discussions.

16. Disclosure in the Event of a Security Breach. Information may be disclosed to appropriate federal agencies and Department contractors that have a need to know the information for the purpose of assisting the Department's efforts to respond to a suspected or confirmed breach of the security or confidentiality of information maintained in this system of records, provided the information disclosed is relevant and necessary for that assistance.

17. Disclosure for Cybersecurity Monitoring Purposes. Records may be disclosed to the U.S. Department of Homeland Security (DHS) if captured in an intrusion detection system used by HHS and DHS pursuant to a DHS cybersecurity program that monitors Internet traffic to and from federal government computer networks to prevent a variety of types of cybersecurity incidents.

Information may also be disclosed from this system of records to parties outside HHS for any of the uses authorized directly in the Privacy Act at 5 U.S.C. 552a(b)(2) and (b)(4)–(12).

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

The HHS Program Support Center may make disclosures to consumer reporting agencies regarding debts referred from repatriation activities. See System of Records 09–40–0012 Debt Management and Collection System.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM—

STORAGE:

Records are stored on grantee's computer network and safe/file cabinet.

RETRIEVABILITY:

Records are retrieved by name of recipient, case file, or SSN.

SAFEGUARDS:

Safeguards conform to the HHS Information Security Program, *http://www.hhs.gov/ocio/securityprivacy/index.html.*

RETENTION AND DISPOSAL:

Files are transferred to a Federal Records Center one year after termination of collection efforts, and are destroyed five years after termination of collection efforts (see N1–292–93–1).

SYSTEM MANAGER AND ADDRESS:

Manager, Repatriation Program, Office of Refugee Resettlement, Administration for Children and Families, Department of Health and Human Services, Mary E. Switzer Building, 330 C Street SW., Washington, DC 20201.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the System Manager. The request should include the name, telephone number and/or email address, SSN, and address of the individual, and the request must be signed. The requester's letter must provide sufficient particulars to enable the System Manager to distinguish between records on subject individuals with the same name. Verification of identity as described in HHS's Privacy Act regulations may be required. 45 CFR 5b.5

RECORD ACCESS PROCEDURES:

Individuals seeking access to a record about themselves in this system of records should address written inquiries to the System Manager. The request should include the name, telephone number and/or email address, SSN, and address of the individual, and should be signed. The requester's letter must provide sufficient particulars to enable the System Manager to distinguish between records on subject individuals with the same name. Verification of identity as described in HHS's Privacy Act regulations may be required. 45 CFR 5b.5

CONTESTING RECORD PROCEDURES:

Individuals seeking to amend a record about themselves in this system of records should address the request for amendment to the System Manager. The request should (1) include the name, telephone number and/or email address, SSN, and address of the individual, and should be signed; (2) identify the system of records that the individual believes includes his or her records or otherwise provide enough information to enable the identification of the individual's record; (3) identify the information that the individual believes in not accurate, relevant, timely, or complete; (4) indicate what corrective action is sought; and (5) include supporting justification or documentation for the requested amendment. Verification of identity as described in HHS's Privacy Act regulations may be required. 45 CFR 5b.5.

RECORD SOURCE CATEGORIES:

Information may be obtained from a wide variety of institutions and individuals involved who may be in the process or repatriation and/or deportation. Sources include the record subject; representatives and relatives of the record subject; Department of State and other federal agencies; international agencies; foreign governments; social service organizations; employers; state agencies; health care institutions; and other sources including public information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

SYSTEM NUMBER:

09–80–0329.

SYSTEM NAME:

ORR Unaccompanied Refugee Minors Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of Refugee Resettlement (ORR), Administration for Children and Families (ACF), Department of Health and Human Services (HHS), Mary E. Switzer Building, 330 C Street SW., Washington, DC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Refugee unaccompanied children who are admitted from refugee camps overseas or determined eligible after arrival in the United States and do not have a parent or a relative available and committed to providing for their long term care; children eligible for benefits as victims of a severe form of trafficking; entrant children with Cuban-Haitian Entrant designation; and unaccompanied minor children granted asylum in the United States, Special Immigrant Juvenile Status, or U status.

The Privacy Act applies only to U.S. persons (citizens of the United States or aliens lawfully admitted for permanent residence in the United States). As a matter of discretion, ORR will treat information that it maintains in its mixed systems of records as being subject to the provisions of the Privacy Act, regardless of whether or not the information relates to U.S. persons covered by the Privacy Act. This implements a 1975 Office of Management and Budget (OMB) recommendation to apply, as a matter of policy, the administrative provisions of the Privacy Act to records about non-U.S. persons in mixed systems of records (referred to as the non-U.S. persons policy).

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of database records and hard copy case files:

- The database includes information reported on ORR Forms 3 and 4 (name, address, alien number, country of origin, immigration classification, parents' names, national and local refugee resettlement agency, child welfare agency, school progress, English language acquisition, education progress, social adjustment, health conditions, family reunion, emancipation information, etc.), eligibility determinations, identifying information, placement, and progress summaries are recorded.
- Hard copy case files include letters and forms documenting the reclassification and designation of individuals covered by the systems, tracking documents, and case notes. Electronic files include messages used for determining placements.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

8 U.S.C. 1521, 1522; Title V of the Refugee Education Assistance Act of 1980, 8 U.S.C. 1522 note.

PURPOSE(S):

Records are used by HHS/ACF/ORR to establish legal responsibility, under state law, to ensure that unaccompanied minor refugees and entrants receive the full range of assistance, care, and services which are available to all foster children in the state; a legal authority is designated to act in place of the child's unavailable parent(s). Reunification of children with their parents or other appropriate adult relatives is encouraged, through family tracing and coordination with local refugee resettlement agencies. Additional services provided include: Indirect financial support for housing, food, clothing, medical care and other necessities; intensive case management by social workers; independent living skills training; educational supports; English language training; career/college counseling and training; mental health services; assistance adjusting immigration status; cultural activities; recreational opportunities; support for social integration; and cultural and religious preservation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These routine uses specify circumstances, in addition to those provided by statute in the Privacy Act of 1974, 5 U.S.C. 552a(b), under which ACF may release information from this system of records without the consent of the data subject. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible, including but not limited to ensuring that the purpose of the disclosure is compatible with the purpose for which the information was collected.

1. *Disclosure to Attorney.* Information may be disclosed to an attorney or representative (as defined in 8 CFR 1.2) who is acting on behalf of an individual covered by this system of records in connection with any proceeding before the Department of Homeland Security or the Executive Office for Immigration Review.

2. *Disclosure to a Protection or Advocacy Organization.* Information may be disclosed to a protection or advocacy organization when access is authorized and the request is appropriately made under the Protection and Advocacy for Individuals with Mental Illness Act, 42 U.S.C. 10801 *et seq.*

3. *Disclosure to Department of Homeland Security for Immigration Relief.* Information may be disclosed to the Department of Homeland Security for the purpose of adjudicating or deciding immigration relief.

4. *Disclosure to Service Provider.* Information may be disclosed to a provider of services to refugee minors, foster care agency, national voluntary refugee resettlement agency, or to a local, county or State institution (*e.g.*, State refugee coordinator, child welfare agency, court, or social service agency) involved in resettlement activities.

5. *Disclosure for Law Enforcement Purpose.* Information may be disclosed to the appropriate federal, state, local, tribal, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, if the information is relevant to a violation or potential violation of civil or criminal law or regulation within the jurisdiction of the receiving entity.

6. *Disclosure for Private Relief Legislation.* Information may be disclosed to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A 19.

7. *Disclosure to Congressional Office.* Information may be disclosed to a congressional office from the record of an individual in response to a written

inquiry from the congressional office made at the written request of the individual.

8. Disclosure to Department of Justice or in Proceedings. Information may be disclosed to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which HHS is authorized to appear, when:

- HHS, or any component thereof; or
- any employee of HHS in his or her official capacity; or
- any employee of HHS in his or her individual capacity where the Department of Justice or HHS has agreed to represent the employee; or
- the United States, if HHS determines that litigation is likely to affect HHS or any of its components,

is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or HHS is deemed by HHS to be relevant and necessary to the litigation provided, however, that in each case it has been determined that the disclosure is compatible with the purpose for which the records were collected.

9. Disclosure to the National Archives. Information may be disclosed to the National Archives and Records Administration in records management inspections.

10. Disclosure to Contractors, Grantees, and Others. Information may be disclosed to contractors, grantees, consultants, or volunteers performing or working on a contract, service, grant, cooperative agreement, job, or other activity for HHS and who have a need to have access to the information in the performance of their duties or activities for HHS.

11. Disclosure for Administrative Claim, Complaint, and Appeal. Information from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other person properly engaged in investigation or settlement of an administrative grievance, complaint, claim, or appeal filed by an employee, but only to the extent that the information is relevant and necessary to the proceeding. Agencies that may obtain information under this routine use include, but are not limited to, the Office of Personnel Management, Office of Special Counsel, Merit Systems Protection Board, Federal Labor Relations Authority, Equal Employment Opportunity Commission, and Office of Government Ethics.

12. Disclosure to Office of Personnel Management. Information from this system of records may be disclosed to the Office of Personnel Management pursuant to that agency's responsibility for evaluation and oversight of federal personnel management.

13. Disclosure in Connection with Litigation. Information from this system of records may be disclosed in connection with litigation or settlement discussions regarding claims by or against HHS, including public filing with a court, to the extent that disclosure of the information is relevant and necessary to the litigation or discussions.

14. Disclosure in the Event of a Security Breach. Information may be disclosed to appropriate federal agencies and Department contractors that have a need to know the information for the purpose of assisting the Department's efforts to respond to a suspected or confirmed breach of the security or confidentiality of information maintained in this system of records, provided the information disclosed is relevant and necessary for that assistance.

15. Disclosure for Cybersecurity Monitoring Purposes. Records may be disclosed to the U.S. Department of Homeland Security (DHS) if captured in an intrusion detection system used by HHS and DHS pursuant to a DHS cybersecurity program that monitors Internet traffic to and from federal government computer networks to prevent a variety of types of cybersecurity incidents.

Information may also be disclosed from this system of records to parties outside HHS for any of the uses authorized directly in the Privacy Act at 5 U.S.C. 552a(b)(2) and (b)(4)–(11).

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM—

STORAGE:

Computer records are stored on a computer network. Paper records are stored in file folders.

RETRIEVABILITY:

Records of refugee unaccompanied minors, reclassified refugee unaccompanied minors, children who are eligible for benefits as victims of a severe form of trafficking, entrant minor children of the Cuban-Haitian Entrant programs and minor children granted asylum, Special Immigrant Juvenile Status or U status are retrieved by name and alien numbers from the ORR database.

SAFEGUARDS:

Safeguards conform to the HHS Information Security Program, *http://www.hhs.gov/ocio/securityprivacy/index.html.*

RETENTION AND DISPOSAL:

Database records are retained permanently; they are offered to the National Archives every five years (see N1–292–90–04, item 15). Case files are retained for five years following receipt of the final progress report (see N1–292–90–4, item 34).

SYSTEM MANAGER AND ADDRESS:

Director, Division of Children's Services, Office of Refugee Resettlement, Administration for Children and Families, Department of Health and Human Services, Mary E. Switzer Building, 330 C Street SW., Washington, DC 20201.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the System Manager. The request should include the name, telephone number and/or email address, Alien Number, and address of the individual, and the request must be signed. The requester's letter must provide sufficient particulars to enable the System Manager to distinguish between records on subject individuals with the same name. Verification of identity as described in HHS's Privacy Act regulations may be required. 45 CFR 5b.5

RECORD ACCESS PROCEDURES:

Individuals seeking access to a record about themselves in this system of records should address written inquiries to the System Manager. The request should include the name, telephone number and/or email address, Alien Number, and address of the individual, and should be signed. The requester's letter must provide sufficient particulars to enable the System Manager to distinguish between records on subject individuals with the same name. Verification of identity as described in HHS's Privacy Act regulations may be required. 45 CFR 5b.5

CONTESTING RECORD PROCEDURES:

Individuals seeking to amend a record about themselves in this system of records should address the request for amendment to the System Manager. The request should (1) include the name, telephone number and/or email address, Alien Number, and address of the individual, and should be signed; (2) identify the system of records that the individual believes includes his or her records or otherwise provide enough information to enable the identification of the individual's record; (3) identify the information that the individual believes in not accurate, relevant, timely, or complete; (4) indicate what corrective action is sought; and (5) include supporting justification or documentation for the requested amendment. Verification of identity as described in HHS's Privacy Act regulations may be required. 45 CFR 5b.5

RECORD SOURCE CATEGORIES:

Record subject, national and local voluntary refugee resettlement agencies, child welfare agencies, family members, private individuals, private and public hospitals, doctors, law enforcement agencies and officials, private attorneys, facilities reports, third parties, other Federal agencies, State and local governments, agencies and instrumentalities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

System Number:

09–80–0388.

SYSTEM NAME:

ORR Refugee Suicide Database.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Datacenter for Administration for Children and Families (ACF), Department of Health and Human Services (HHS), Mary E. Switzer Building, 330 C Street SW., Washington, DC

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records pertain to individuals in ORR populations reported as unsuccessfully attempting a suicide in the United States. ORR populations include refugees, asylees, Cuban/Haitian entrants, Afghan and Iraqi Special Immigrants, certain Amerasians, and victims of human trafficking.

The Privacy Act applies only to U.S. persons (citizens of the United States or aliens lawfully admitted for permanent residence in the United States). As a matter of discretion, ORR will treat information that it maintains in its mixed systems of records as being subject to the provisions of the Privacy Act, regardless of whether or not the information relates to U.S. persons covered by the Privacy Act. This implements a 1975 Office of Management and Budget (OMB) recommendation to apply, as a matter of policy, the administrative provisions of the Privacy Act to records about non-U.S. persons in mixed systems of records (referred to as the non-U.S. persons policy).

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of data reported by states and other resettlement organizations, using the Refugee Suicide and Self-Harm Report Form, which ORR enters into spreadsheets. The records may include the following information about the individual who attempted suicide: Alien number; country of origin; age; gender; residence (city/county, state); estimated length of time in the U.S.; date of suicide attempt; outcome of suicide attempt; household members (type of relationship); ORR population type; current immigration status; marital/relationship status; employment status at time of suicide attempt; health insurance status; English proficiency; religion; method of suicide attempted; place of occurrence; contributing factors; and mental health concerns.

AUTHORITY OF MAINTENANCE OF THE SYSTEM:

Section 412(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1522(b)(4))

PURPOSE(S):

ORR will use records in the Refugee Suicide Database to identify trends and factors related to suicidal behavior among ORR populations. Additionally, ORR will use the records to plan, implement, and evaluate suicide prevention and intervention activities, in collaboration with local, state, and national government agencies and organizations serving the refugee population.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USERS:

These routine uses specify circumstances under which ACF may disclose information from this system of records without the prior written consent of the data subject. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible, including but not limited to ensuring that the purpose of the disclosure is compatible with the purpose for which the information was collected.

1. *Disclosure to Government Agencies and Organizations Assisting the Refugee Population.* Information will be shared with local, state, and national government agencies and organizations serving the refugee population, for the purpose of collaborating with them to plan, implement, and evaluate suicide prevention and intervention activities.

2. *Disclosure to Contractors, Grantees, and Others.* Information may be disclosed to contractors, grantees, consultants, or volunteers performing or working on a contract, service, grant, cooperative agreement, job, or memorandum of understanding, or other activity for HHS related to the purposes of the system, and who have a need to have access to the information in the performance of their duties or activities for HHS.

3. *Disclosure in the Event of a Security Breach.* Records may be disclosed to appropriate federal agencies and Department contractors that have a need to know the information for the purpose of assisting the Department's efforts to respond to a suspected or confirmed breach of the security or confidentiality of information maintained in this system of records, when the information disclosed is relevant and necessary for that assistance.

4. *Disclosure for Cybersecurity Monitoring Purposes.* Records may be disclosed to the U.S. Department of Homeland Security (DHS) if captured in an intrusion detection system used by HHS and DHS pursuant to a DHS cybersecurity program that monitors Internet traffic to and from federal government computer networks to prevent a variety of types of cybersecurity incidents.

Information may also be disclosed from this system of records to parties outside HHS for any of the uses authorized directly in the Privacy Act at 5 U.S.C. 552a(b)(2) and (b)(4)–(11).

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM—

STORAGE:

Records are stored in an electronic database on a computer network.

RETRIEVABILITY:

Records are retrieved by alien number.

SAFEGUARDS:

Information in this system is safeguarded in accordance with applicable laws, rules and policies. Records are protected from unauthorized access through appropriate administrative, physical, and technical safeguards. Access to the records is restricted to authorized personnel (a limited number of employees in ORR with access to the database, and a limited number of employees in other HHS offices, *e.g.,* CDC and SAMHSA, receiving data from ORR) who are advised of the confidentiality of the records and the civil and criminal penalties for misuse. Personnel with authorized access to the system are provided privacy and security training for electronically stored information. The records are processed and stored in a secure environment. All records are stored in an area that is physically safe from access by unauthorized persons at all times. Safeguards conform to the HHS Information Security Program, *http://www.hhs.gov/ocio/securityprivacy/index.html.*

RETENTION AND DISPOSAL:

The records will be retained indefinitely pending scheduling with the National Archives and Records Administration (NARA). Because the records will have continuing value for epidemiological purposes, the retention period proposed to NARA may be 100 years or longer.

SYSTEM MANAGER AND ADDRESS:

Director, Division of Refugee Health, Office of Refugee Resettlement, Administration for Children and Families, Mary E. Switzer Building, 330 C Street SW., Washington, DC 20201.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should address written inquiries to the System Manager. The request should include the alien number, age, telephone number, and/or email address of the individual data subject. The request must be signed by the requester. Verification of identity as described in the Department's Privacy Act regulations may be required (see 45 CFR 5b.5). If the individual data subject is a minor or is legally incompetent, the individual's legal representative (parent or court-appointed guardian) may request notification on the individual's behalf. The representative must provide verification of identity and competent evidence of the parent or guardian relationship.

RECORD ACCESS PROCEDURES:

Individuals seeking access to a record about them in this system of records should address written inquiries to the System Manager. The request should include the alien number, age, telephone number, and/or email address of the individual. The request must be signed by the individual to whom such information pertains. Verification of identity as described in the Department's Privacy Act regulations may be required (see 45 CFR 5b.5). If the individual data subject is a minor or is legally incompetent, the individual's legal representative (parent or court-appointed guardian) may request access on the individual's behalf. The representative must provide verification of identity and competent evidence of the parent or guardian relationship.

CONTESTING RECORD PROCEDURES:

Individuals seeking to amend a record about them in this system of records should address the request for amendment to the System Manager. The request should:

- Include the alien number, age, telephone number, and/or email address of the individual, and should be signed by the individual to whom such information pertains;
- identify the system of records that the individual believes includes his or her records or otherwise provide enough information to enable the identification of the individual's record;
- identify the information that the individual believes is not accurate, relevant, timely or complete;
- indicate what corrective action is sought; and
- include supporting justification or documentation for the requested amendment.

Verification of identity as described in the Department's Privacy Act regulations may be required (see 45 CFR 5b.5). If the individual data subject is a minor or is legally incompetent, the individual's legal representative (parent or court-appointed guardian) may make an amendment request on the individual's behalf. The representative must provide verification of identity and competent evidence of the parent or guardian relationship.

RECORD SOURCE CATEGORIES:

The information maintained in the system is provided by states and other resettlement organizations when they report a suicide attempt using the Refugee Suicide and Report Form. The State Refugee Coordinator and State Refugee Health Coordinator will be primarily responsible for reporting this information. They will collect the information from various sources within the state including refugee resettlement agencies, public health departments, ethnic-based community organizations, and refugee community leaders.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2016–16812 Filed 7–15–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–D–0031]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Clinical Laboratory Improvement Amendments Act of 1988 Waiver Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by August 17, 2016.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0598. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, Three White Flint North, 10A63, 11601 Landsdown St., North Bethesda, MD 20852, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

CLIA Waiver Applications—OMB Control Number 0910–0598—Extension

Congress passed the CLIA (Pub. L. 100–578) in 1988 to establish quality standards for all laboratory testing. The purpose was to ensure the accuracy, reliability, and timeliness of patient test results regardless of where the test took place. CLIA requires that clinical laboratories obtain a certificate from the Secretary of Health and Human Services (the Secretary), before accepting materials derived from the human body for laboratory tests (42 U.S.C. 263a(b)). Laboratories that perform only tests that are "simple" and that have an "insignificant risk of an erroneous result" may obtain a certificate of waiver (42 U.S.C. 263a(d)(2)). The Secretary has delegated to FDA the authority to determine whether particular tests (waived tests) are "simple" and have "an insignificant risk of an erroneous result" under CLIA (69 FR 22849, April 27, 2004).

On January 30, 2008, FDA published a guidance document entitled "Guidance for Industry and FDA Staff: Recommendations for Clinical Laboratory Improvement Amendments of 1988 (CLIA) Waiver Applications for Manufacturers of In Vitro Diagnostic Devices" (*http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm079632.htm*). This guidance document describes recommendations for device manufacturers submitting to FDA an application for determination that a cleared or approved device meets this CLIA standard (CLIA waiver application). The guidance recommends that CLIA waiver applications include a description of the features of the device that make it "simple"; a report describing a hazard analysis that identifies potential sources of error, including a summary of the design and results of flex studies and conclusions drawn from the flex studies; a description of fail-safe and failure alert mechanisms and a description of the studies validating these mechanisms; a description of clinical tests that demonstrate the accuracy of the test in the hands of intended operators; and statistical analyses of clinical study results.

In the **Federal Register** of April 1, 2016 (81 FR 18858), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours	Total operating and maintenance costs
CLIA waiver application	40	1	40	1,200	48,000	$350,000

[1] There are no capital costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
CLIA waiver records	40	1	40	2,800	112,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The total number of reporting and recordkeeping hours is 160,000 hours. FDA bases the burden on an Agency analysis of premarket submissions with clinical trials similar to the waived laboratory tests. Based on previous years' experience with CLIA waiver applications, FDA expects 40 manufacturers to submit one CLIA waiver application per year. The time required to prepare and submit a waiver application, including the time needed to assemble supporting data, averages 1,200 hours per waiver application for a total of 48,000 hours for reporting. Based on previous years' experience with CLIA waiver applications, FDA expects that each manufacturer will spend 2,800 hours creating and maintaining the record for a total of 112,000 hours.

The total operating and maintenance cost associated with the waiver application is estimated at $350,000. This cost is largely attributed to clinical study costs incurred, which include site selection and qualification, protocol review, and study execution (initiation, monitoring, closeout, and clinical site/subject compensation—including specimen collection for study as well as shipping and supplies).

Dated: July 13, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–16886 Filed 7–15–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–0001]

Refurbishing, Reconditioning, Rebuilding, Remarketing, Remanufacturing, and Servicing of Medical Devices Performed by Third-Party Entities and Original Equipment Manufacturers; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following public workshop entitled "Refurbishing, Reconditioning, Rebuilding, Remarketing, Remanufacturing, and Servicing of Medical Devices Performed by Third-Party Entities and Original Equipment Manufacturers." The topics to be discussed are the current regulatory environment for these activities, the definitions of the various terms FDA proposed in the prior **Federal Register** notice on this subject, and whether these activities should appropriately be regulated by FDA or a non-governmental organization.

DATES: The public workshop will be held on October 27, 2016, from 8:30 a.m. to 5 p.m. and October 28, 2016, from 8:30 a.m. to 4 p.m.

ADDRESSES: The public workshop will be held at FDA's White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Entrance for the public workshop participants (non-FDA employees) is through Building 1, where routine security check procedures will be performed. For parking and security information, please refer to *http://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

FOR FURTHER INFORMATION CONTACT: Felicia Brayboy, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 3464, Silver Spring, MD 20993, 301–796–8086, *Felicia.Brayboy@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On March 4, 2016, FDA published in the **Federal Register** a notice (81 FR 11477) requesting comments from interested persons, including those engaged or otherwise interested in the ''Refurbishing, Reconditioning, Rebuilding, Remarketing, Remanufacturing, and Servicing of Medical Devices,'' including radiation-emitting devices subject to the electronic product radiation control provisions of the Federal Food, Drug, and Cosmetic Act. FDA took this action, in part, because various stakeholders have expressed concerns about the quality, safety, and continued effectiveness of medical devices that have been subject to one or more of these activities. This docket asked that interested persons, including Original equipment manufacturers (OEMs), health care establishments, and third-party entities review proposed terms and definitions and provide edits if applicable. The docket also sought insights into basic concepts with regard to these activities. FDA is currently reviewing all of the comments and will use them to inform a set of working questions designed to promote an understanding of challenges and best practices to mitigate risks associated with these activities. These working questions will be addressed in group discussions on both days of the workshop.

II. Topics for Discussion at the Public Workshop

The public workshop sessions will incorporate the following general themes pertaining to the refurbishing, reconditioning, rebuilding, remarketing, remanufacturing, and servicing of medical devices:

- Establish working definitions for third-party and OEM activities.
- Discuss benefits and challenges that stakeholders encounter, potential benefits and risks to patients/users, and failure modes of devices introduced as a result of performing activities associated with third-party entities.
- Identify current best practices and discuss alternative methods to mitigate risks associated with performing activities associated with third-party entities.
- Determine whether specific procedures are necessary for each activity as it relates to third-party services performed.

Registration: Registration is free and available on a first-come, first-served basis. Persons interested in attending this public workshop must register online by September 23, 2016, by 4 p.m. Early registration is recommended because facilities are limited and, therefore, FDA may limit the number of participants from each organization. If time and space permits, onsite registration on the day of the public workshop; will be provided beginning at 7:30 a.m.

If you need special accommodations due to a disability, please contact Peggy Roney, Office of Communication, Education, and Radiation Programs, 301–796–5671, email: *Peggy.roney@fda.hhs.gov,* no later than October 13, 2016.

To register for the public workshop, please visit FDA's Medical Devices News & Events—Workshops & Conferences calendar at *http://www.fda.gov/MedicalDevices/NewsEvents/WorkshopsConferences/default.htm.* (Select this meeting/public workshop from the posted events list.) Please provide complete contact information for each attendee, including name, title, affiliation, address, email, and telephone number. Those without Internet access should contact Peggy Roney to register (see special accomodations contact). Registrants will receive confirmation after they have been accepted. You will be notified if you are on a waiting list.

Streaming Webcast of the Public Workshop: This public workshop will also be Webcast. The Webcast link will be available on the registration Web page after October 20, 2016. If you have never attended a Connect Pro event before, test your connection at *https://collaboration.fda.gov/common/help/en/support/meeting_test.htm.* To get a quick overview of the Connect Pro program, visit *http://www.adobe.com/go/connectpro_overview.* FDA has verified the Web site addresses in this document, as of the date this document publishes in the **Federal Register**, but Web sites are subject to change over time.

Requests for Oral Presentations: This public workshop includes a public comment session and topic-focused sessions. During online registration you may indicate if you wish to present during a public comment session or participate in a specific session, and which topics you wish to address. FDA has included general topics in this document. FDA will do its best to accommodate requests to make public comments and participate in the focused sessions. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations, and request time for a joint presentation, or submit requests for designated representatives to participate in the focused sessions. Following the close of registration, FDA will determine the amount of time allotted to each presenter and the approximate time each oral presentation is to begin, and will select and notify participants by September 30, 2016. All requests to make oral presentations must be received by the close of registration on September 23, 2016, by 4 p.m. (EDT). If selected as a presenter, any presentation materials must be emailed to Felicia Brayboy (see **FOR FURTHER INFORMATION CONTACT**) no later than October 13, 2016. No commercial or promotional material will be permitted to be presented or distributed at the public workshop.

Transcripts: Please be advised that as soon as a transcript is available, it will be accessible at *http://www.regulations.gov.* It may be viewed at the Division of Dockets Management (see **ADDRESSES**). A transcript will also be available in either hardcopy or on CD–ROM, after submission of a Freedom of Information request. The Freedom of Information office address is available on the Agency's Web site at *http://www.fda.gov.* A link to the transcripts will also be available approximately 45 days after the public workshop on the Internet at *http://www.fda.gov/MedicalDevices/NewsEvents/WorkshopsConferences/default.htm.* (Select this public workshop from the posted events list).

Dated: July 13, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–16887 Filed 7–15–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel; NEI Translational Research (R24) and Patient-Oriented Mentored Training (K23) Grant Applications.

Date: August 4, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, Tenleytown Ballroom II, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Anne E. Schaffner, Ph.D., Chief, Scientific Review Branch Division of Extramural Research, National Eye Institute, 5635 Fishers Lane, Suite 1300, MSC 9300, Bethesda, MD 20892–9300, (301) 451–2020, *aes@nei.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: July 12, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–16833 Filed 7–15–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Request for Data and Information on Technologies Used To Identify Substances With the Potential To Cause Acute Systemic Toxicity

SUMMARY: The National Toxicology Program (NTP) Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM) requests data and information on approaches and/or technologies currently used to identify substances with the potential to cause acute systemic toxicity when swallowed, inhaled, or absorbed through the skin. Submitted information will be used to assess the state of the science and determine technical needs for non-animal test methods used to evaluate the potential of chemicals to induce acute systemic toxicity.

DATES: *Receipt of information:* Deadline is September 1, 2016.

ADDRESSES: Data and information should be submitted electronically to *niceatm@niehs.nih.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Warren Casey, Director, NICEATM; email: *warren.casey@nih.gov;* telephone: (919) 316–4729.

SUPPLEMENTARY INFORMATION:

Background: Acute systemic toxicity tests are conducted to determine the potential for a single or short-term dose of a substance to cause illness or death when inhaled (inhalation toxicity testing), swallowed (oral toxicity testing), or absorbed through the skin (dermal toxicity testing). These tests are required by multiple regulatory agencies and can use large numbers of animals. NICEATM, which fosters the evaluation and promotion of alternative test methods for regulatory use, supports efforts to develop, validate, and implement alternative approaches for acute systemic toxicity testing that replace, reduce, or refine use of animals in testing.

Request for Information: NICEATM requests data and information on approaches and/or technologies currently used to identify substances with the potential to cause acute systemic toxicity. Respondents should provide information on any activities relevant to the development or validation of alternatives to *in vivo* tests currently required by regulatory agencies that assess acute oral, dermal, or inhalation toxicity. Of specific interest are chemical-specific data from non-animal tests for acute systemic toxicity hazard, as well as available data on the same chemicals from *in vivo* acute systemic toxicity tests, such as ethical human or animal studies or accidental human exposures.

Respondents to this request for information should include their name, affiliation (if applicable), mailing address, telephone, email, and sponsoring organization (if any) with their communications. The deadline for receipt of the requested information is September 1, 2016. Responses to this notice will be posted at *http://ntp.niehs.nih.gov/go/iv-data.* Persons submitting responses will be identified on the Web page by name and affiliation or sponsoring organization, if applicable.

Responses to this request are voluntary. No proprietary, classified, confidential, or sensitive information should be included in responses. This request for information is for planning purposes only and is not a solicitation for applications or an obligation on the part of the U.S. Government to provide support for any ideas identified in response to the request. Please note that the U.S. Government will not pay for the preparation of any information submitted or for its use of that information.

Background Information on NICEATM: NICEATM conducts data analyses, workshops, independent validation studies, and other activities to assess new, revised, and alternative test methods and strategies. NICEATM also provides support for the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM). The ICCVAM Authorization Act of 2000 (42 U.S.C. 285*l*–3) provides authority for ICCVAM and NICEATM in the development of alternative test methods. Information about NICEATM and ICCVAM is found at *http://ntp.niehs.nih.gov/go/niceatm* and *http://ntp.niehs.nih.gov/go/iccvam.*

Dated: July 12, 2016.

John R. Bucher,

Associate Director, National Toxicology Program.

[FR Doc. 2016–16840 Filed 7–15–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice of Kidney Interagency Coordinating Committee Meeting

SUMMARY: The Kidney Interagency Coordinating Committee (KICC) will hold a meeting on September 19, 2016, on "CRIC and CKiD: Using longitudinal CKD cohort study findings to plan population health interventions.'' The meeting is open to the public.

DATES: The meeting will be held on September 19, 2016, 9 a.m. to 12 p.m. Individuals wanting to present oral comments must notify the contact person at least 10 days before the meeting date.

ADDRESSES: The meeting will be held in the Natcher Conference Center on the NIH Campus at 9000 Rockville Pike, Bethesda, MD 20894.

FOR FURTHER INFORMATION CONTACT: For further information concerning this meeting, contact Dr. Andrew S. Narva, Executive Secretary of the Kidney Interagency Coordinating Committee, National Institute of Diabetes and Digestive and Kidney Diseases, 6707 Democracy Blvd., MSC 5458, Bethesda, MD 20892–5458, telephone: 301–594–8864; FAX: 301–480–3510; email: *healthinfo@niddk.nih.gov.*

SUPPLEMENTARY INFORMATION: The KICC, chaired by the National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK), comprises members of the Department of Health and Human

Services and other federal agencies that support kidney-related activities, facilitates cooperation, communication, and collaboration on kidney disease among government entities. KICC meetings, held twice a year, provide an opportunity for Committee members to learn about and discuss current and future kidney programs in KICC member organizations and to identify opportunities for collaboration. The September 19, 2016 KICC meeting will focus on "CRIC and CKiD: Using longitudinal CKD cohort study findings to plan population health interventions."

Any member of the public interested in presenting oral comments to the Committee should notify the contact person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives or organizations should submit a letter of intent, a brief description of the organization represented, and a written copy of their oral presentation in advance of the meeting. Only one representative of an organization will be allowed to present; oral comments and presentations will be limited to a maximum of 5 minutes. Printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the Committee by forwarding their statement to the contact person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person. Because of time constraints for the meeting, oral comments will be allowed on a first-come, first-serve basis.

Members of the public who would like to receive email notification about future KICC meetings should send a request to *healthinfo@niddk.nih.gov.*

Dated: July 6, 2016.

Camille M. Hoover,

Executive Officer, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health.

[FR Doc. 2016–16907 Filed 7–15–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Peer Review Meeting.

Date: August 4, 2016.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Robert C. Unfer, Ph.D., Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, 5601 Fishers Lane, Room 3F40, MSC 9823, Rockville, MD 20892–9823, 240–669–5035, *unferrc@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: July 12, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–16834 Filed 7–15–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Mental Health Services; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given that the Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Mental Health Services (CMHS) National Advisory Council (NAC) will meet on August 24, 2016, from 9:00 a.m. to 5:00 p.m. E.D.T. The NAC will convene in both open and closed sessions.

The closed portion of the meeting will include discussion and evaluation of grant review applications by SAMHSA's Initial Review Groups, and involve an examination of confidential financial and business information as well as personal information concerning the applicants. Therefore, the meeting will be closed to the public from 9:00 a.m. to 12:00 p.m. as determined by the Principle Deputy Administrator, in accordance with title 5 U.S.C. 552b(c)(4) and (6). The remainder of this meeting will be open to the public from 12:00 p.m. to 5:00 p.m. to include presentations on Improving Inpatient Care and Family Caregiver Challenges and Solutions.

The meeting will be held at SAMHSA, 5600 Fishers Lane, 5th Floor, Conference Room A03, Rockville, MD 20857. Attendance by the public will be limited to space available. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions should be forwarded to the contact person (below) on or before August 10, 2016. Oral presentations from the public will be scheduled at the conclusion of the meeting.

The meeting can be accessed via telephone. To obtain the conference call-in number and access code, submit written or brief oral comments, or request special accommodations for persons with disabilities, please register at the SAMHSA's Advisory Committees Web site at *http://nac.samhsa.gov/Registration/meetingsRegistration.aspx,* or contact Pamela Foote (see contact information below).

Committee Name: Substance Abuse and Mental Health Services Administration Center for Mental Health Services National Advisory Council.

Dates/Time/Type: Wednesday, August 24, 2016, 9:00 a.m. to 12:00 p.m. EDT: CLOSED; Wednesday, August 24, 2016, 12:00 p.m. to 5:00 p.m. EDT: OPEN.

Place: SAMHSA, 5600 Fishers Lane, 5th Floor, Conference Room A03, Rockville, Maryland 20857.

Contact: Pamela Foote, Acting Designated Federal Official, SAMHSA CMHS National Advisory Council, 5600 Fishers Lane, Room 14E53C, Rockville, Maryland 20857, *Telephone:* (240) 276–1279, *Fax:* (301) 480–8491, *Email: pamela.foote@samhsa.hhs.gov.*

Summer King,

Statistician, Substance Abuse and Mental Health Services Administration.

[FR Doc. 2016–16829 Filed 7–15–16; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given that the Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Substance Abuse Prevention (CSAP) National Advisory Council will meet on July 25, 2016, 3:00 p.m.–4:00 p.m., via teleconference.

The meeting will include the review, discussion, and evaluation of grant applications reviewed by the Initial Review Group, and involve an examination of confidential financial and business information as well as personal information concerning the applicants. Therefore, these meetings will be closed to the public as determined by the SAMHSA Administrator, in accordance with title 5 U.S.C. 552b(c)(4) and (c)(6); and 5 U.S.C. App. 2, section 10(d).

Committee Name: Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Prevention National Advisory Council.

Date/Time/Type: July 25, 2016, 3:00 p.m.–4:00 p.m. (CLOSED).

Place: SAMHSA Building, 5600 Fishers Lane, Rockville, MD 20857.

Contact: Matthew J. Aumen, Designated Federal Officer, SAMHSA/CSAP National Advisory Council, 5600 Fishers Lane, Rockville, MD 20857, Email: *Matthew.Aumen@samhsa.hhs.gov.*

Summer King,

Statistician.

[FR Doc. 2016–16820 Filed 7–15–16; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–IA–2016–0080]; [FXIA16710900000–156–FF09A30000]

Marine Mammals; Issuance of Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permits.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have issued the following permits to conduct certain activities with marine mammals. We issue these permits under Marine Mammal Protection Act (MMPA).

ADDRESSES: Brenda Tapia, U.S. Fish and Wildlife Service, Division of Management Authority, Branch of Permits, MS: IA, 5275 Leesburg Pike, Falls Church, VA 22041; fax (703) 358–2281.

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2281 (fax); *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION: On the dates below, as authorized by the provisions of the ESA (16 U.S.C. 1531 *et seq.*), as amended, and/or the MMPA, as amended (16 U.S.C. 1361 *et seq.*), we issued a requested permit subject to certain conditions set forth therein. For each permit for an endangered species, we found that (1) The application was filed in good faith, (2) The granted permit would not operate to the disadvantage of the endangered species, and (3) The granted permit would be consistent with the purposes and policy set forth in section 2 of the ESA.

MARINE MAMMALS

Permit No.	Applicant	Receipt of application ***Federal Register*** notice	Permit issuance date
59492B	British Broadcasting Corporation—Ocean.	81 FR 8093; February 17, 2016	July 1, 2016.

Availability of Documents

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to: U.S. Fish and Wildlife Service, Division of Management Authority, Branch of Permits, MS: IA, 5275 Leesburg Pike, Falls Church, VA 22041; fax (703) 358–2281.

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2016–16863 Filed 7–15–16; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–IA–2016–0079; FXIA16710900000–156–FF09A30000]

Endangered Species; Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (ESA) prohibits activities with listed species unless Federal authorization is acquired that allows such activities.

DATES: We must receive comments or requests for documents on or before August 17, 2016.

ADDRESSES: *Submitting Comments:* You may submit comments by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–HQ–IA–2016–0079.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: Docket No. FWS–HQ–IA–2016–0079; U.S. Fish and Wildlife Service Headquarters, MS: BPHC; 5275 Leesburg Pike, Falls Church, VA 22041–3803.

When submitting comments, please indicate the name of the applicant and the PRT# you are commenting on. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

Viewing Comments: Comments and materials we receive will be available for public inspection on *http://www.regulations.gov,* or by appointment, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays, at the U.S. Fish and Wildlife Service, Division of Management Authority, 5275 Leesburg Pike, Falls Church, VA 22041–3803; telephone 703–358–2095.

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2281 (fax); *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I request copies of applications or comment on submitted applications?

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **ADDRESSES**. Please include the **Federal Register** notice publication date, the PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an email or address not listed under **ADDRESSES**. If you provide an email address in your request for copies of applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I review comments submitted by others?

Comments, including names and street addresses of respondents, will be available for public review at the street address listed under **ADDRESSES**. The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), along with Executive Order 13576, "Delivering an Efficient, Effective, and Accountable Government," and the President's Memorandum for the Heads of Executive Departments and Agencies of January 21, 2009—Transparency and Open Government (74 FR 4685; January 26, 2009), which call on all Federal agencies to promote openness and transparency in Government by disclosing information to the public, we invite public comment on these permit applications before final action is taken.

III. Permit Applications

Endangered Species

Applicant: Exotic Feline Breeding Compound, Inc., Rosamond, CA; PRT–88847B

The applicant requests a permit to import one female captive-bred Persian leopard (*Panthera pardus saxicolor*) from Tierpark-Nordhorn gGmbH, Nordhorn, Germany, for the purpose of enhancement of the survival of the species. This notification covers activities to be conducted by the applicant over a 1-year period.

Applicant: SeaWorld, San Antonio, TX; PRT–96334B

The applicant requests a permit to export one male captive-born Palawan peacock pheasant (*Polyplectron napoleonis*) for the purpose of enhancement of the survival of the species. This notification covers activities to be conducted by the applicant over a 1-year period.

Applicant: Pamela Plotkin, College Station, TX; PRT–43484B

The applicant requests reissuance of a permit to import biological samples from Costa Rica from wild-caught olive Ridley sea turtles (*Lepidochelys olivacea*) for the purpose of scientific research.

Applicant: A Walk on the Wild Side, Canby, OR; PRT–93730B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the following species to enhance species propagation or survival: Ring-tailed lemur (*Lemur catta*), leopard (*Panthera pardus*), African lion (*Panthera leo*), and tiger (*Panthera tigris*). This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: City of Saint Paul/Como Zoo, Saint Paul, MN; PRT 89851B and 89852B

The applicant requests a permit to import two captive-bred snow leopards (*Uncia uncia*), for the purpose of enhancement of the survival of the species. This notification covers activities to be conducted by the applicant over a 1-year period.

Out of Africa Wildlife Park, LLC, Camp Verde, AZ; PRT–760354

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for the following species to enhance species propagation or survival: Leopard (*Panthera pardus*) and snow leopard (*Uncia uncia*). This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: James Mercer, Carbondale, KS; PRT–98881B

The applicant requests a permit to import a sport-hunted trophy of two male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Multiple Applicants

The following applicants each request a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Marion Searle, Lake Forest, IL; PRT–99186B

Applicant: Kristian O'Meara, Powell, OH; PRT–99852B

Applicant: David Robertson, Lewistown, MT; PRT–94807B

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2016–16862 Filed 7–15–16; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[167 A2100DD/AAKC001030/ A0A501010.999900]

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Skokomish Indian Tribe and State of Washington entered into an amendment to an existing Tribal-State compact governing Class III gaming; this notice announces approval of the amendment.

DATES: Effective July 18, 2016.

FOR FURTHER INFORMATION CONTACT: Ms. Paula L. Hart, Director, Office of Indian Gaming, Office of the Assistant Secretary—Indian Affairs, Washington, DC 20240, (202) 219–4066.

SUPPLEMENTARY INFORMATION: Section 11 of the Indian Gaming Regulatory Act (IGRA) requires the Secretary of the Interior to publish in the **Federal Register** notice of approved Tribal-State compacts that are for the purpose of engaging in Class III gaming activities on Indian lands. *See* Public Law 100–497, 25 U.S.C. 2701 *et seq.* All Tribal-State Class III compacts, including amendments, are subject to review and approval by the Secretary under 25 CFR 293.4. The amendment allows the Skokomish Indian Tribe (Tribe) to operate two gaming facilities, updates certain definitions and annual reporting requirements for problem gambling funds, and recognizes the Skokomish Indian Tribal Enterprise, Incorporated, as owner/operator of the Tribe's gaming facilities. The amendment is approved. *See* 25 U.S.C. 2710(d)(8)(A).

Dated: July 11, 2016.

Lawrence S. Roberts,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 2016–16919 Filed 7–15–16; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOR957000–L14400000–BJ0000–16XL1109AF: HAG 16–0176]

Filing of Plats of Survey: Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Bureau of Land Management, Oregon State Office, Portland, Oregon, 30 days from the date of this publication.

Willamette Meridian

Oregon

T. 40 S., R. 4 E., accepted June 17, 2016
T. 25 S., R. 2 W., accepted June 17, 2016
T. 32 S., R. 8 W., accepted June 17, 2016
T. 16 S., R. 5 W., accepted June 17, 2016
T. 2 S., R. 7 E., accepted July 1, 2016
T. 39 S., R. 6 E., accepted July 1, 2016
T. 16 S., R. 3 E., accepted July 1, 2016
Tps. 27 & 28 S., R. 4 W., accepted July 1, 2016
T. 29 S., R. 10 W., accepted July 1, 2016
T. 18 S., R. 6 W., accepted July 6, 2016
T. 20 S., R. 8 W., accepted July 6, 2016

Washington

T. 2 N., R. 1 E., accepted July 6, 2016

ADDRESSES: A copy of the plats may be obtained from the Public Room at the Bureau of Land Management, Oregon State Office, 1220 SW., 3rd Avenue, Portland, Oregon 97204, upon required payment.

FOR FURTHER INFORMATION CONTACT: Kyle Hensley, (503) 808–6132, Branch of Geographic Sciences, Bureau of Land Management, 1220 SW., 3rd Avenue, Portland, Oregon 97204. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: A person or party who wishes to protest against this survey must file a written notice with the Oregon State Director, Bureau of Land Management, stating that they wish to protest. A statement of reasons for a protest may be filed with the notice of protest and must be filed with the Oregon State Director within thirty days after the protest is filed. If a protest against the survey is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed or otherwise resolved. Before including your address, phone number, email address, or other personally identifying information in your comment, you should be aware that your entire comment—including your personally identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifying information from public review, we cannot guarantee that we will be able to do so.

F. David Radford,

Acting, Chief Cadastral Surveyor of Oregon/Washington.

[FR Doc. 2016–16876 Filed 7–15–16; 8:45 am]

BILLING CODE 4310–33–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–16–025]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission

TIME AND DATE: July 20, 2016 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote in Inv. Nos. 731–TA–308–310 and 520–521 (Fourth Review) (Carbon Steel Butt-Weld Pipe Fittings from Brazil, China, Japan, Taiwan, and Thailand). The Commission is currently scheduled to complete and file its determinations and views of the Commission on August 3, 2016.
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: July 12, 2016.

Katherine M. Hiner,

Acting Supervisory Attorney.

[FR Doc. 2016–17012 Filed 7–14–16; 4:15 pm]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–16–026]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: July 22, 2016 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote in Inv. No. 731–TA–1279 (Final) (Hydrofluorocarbon Blends and Components from China). The Commission is currently scheduled to complete and file its determination and views of the Commission on August 1, 2016.
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: July 12, 2016.

Katherine M. Hiner,

Acting Supervisory Attorney.

[FR Doc. 2016–17013 Filed 7–14–16; 4:15 pm]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Quartz Slabs and Portions Thereof (II), DN 3163*; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing under section 210.8(b) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(b)).

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at EDIS,[1] and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server at United States International Trade Commission (USITC) at USITC.[2] The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at EDIS.[3] Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to section 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Cambria Company LLC on July 11, 2016. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain quartz slabs and portions thereof (II). The complaint names as respondents Stylen Quaza LLC DBA Vicostone USA of Dallas, TX; Vicostone Joint Stock Company of Vietnam; Building Plastics Inc. of Memphis, TN; Fasa Industrial Corporation, Ltd. of China; Foshan FASA Building Material Co., Ltd. of China; Solidtops LLC of Oxford, MD; Dorado Soapstone LLC of Denver, CO; and Pental Granite and Marble Inc. of Seattle, WA. The complainant requests that the Commission issue a general exclusion order or in the alternative a limited exclusion order, cease and desist orders and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or section 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number ("Docket No. 3163") in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures).[4] Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[5] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[6]

---

[1] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

[2] United States International Trade Commission (USITC): *http://edis.usitc.gov.*

[3] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

[4] Handbook for Electronic Filing Procedures: *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf.*

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: July 12, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–16845 Filed 7–15–16; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Open Mobile Alliance

Notice is hereby given that, on June 13, 2016, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Open Mobile Alliance ("OMA") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, General Mobile Corporation, Taipei, TAIWAN; Micosa, Inc., Redwood City, CA; Movimento Group, Sunnyvale, CA; ONEm Communications Ltd.; London, UNITED KINGDOM; and Telekom Srbija a.d, Beograd, SERBIA; have been added as parties to this venture.

Also, Asurion LLC, San Mateo, CA; Augmate Corporation, New York, NEW YORK; Bell Mobility, Mississauga, Ontario, CANADA; Bluefish Technologies Europe A/S, Birkerod, DENMARK; Cambridge Silicon Radio Limited, Cambridge, UNITED KINGDOM; Deutsche Telekom AG, TMO, Bonn, GERMANY; EQUADIS S.A., Carouge, SWITZERLAND; Eway Miami Corp., Buenos Aires, ARGENTINA; Fidens Consulting, Southbury, CT; flo Data LTD, London, UNITED KINGDOM; Fraunhofer Gesellschaft e.V., Erlangen, GERMANY; Giesecke & Devrient GmbH, Munich, GERMANY; GS1 Canada, Toronto, Ontario, CANADA; GS1 France, Paris, FRANCE; GS1 Global Office, Brussels, BELGIUM; GS1 Hungary, Budapest, HUNGARY; GS1 Japan, Minato-ku, Tokyo, JAPAN; Hitachi, Ltd., Kawasaki-shi, JAPAN; Icare Institute, Sierre, SWITZERLAND; Images in Space Ltd., Takapuna, Auckland, NEW ZEALAND; Imagination Technologies Limited, Herts, UNITED KINGDOM; InterDigital Communications, Inc., King of Prussia, PA; KWISA, Gangnam-gu, Seoul, REPUBLIC OF KOREA; Mavenir Systems, Richardson, TX; Mformation Software Technologies, Inc., Edison, NJ; Netcomm Wireless Limited, Lane Cove, Sydney, AUSTRALIA; Openwave Messaging, Inc., Redwood City, CA; Qliktag Software, Inc., Newport Beach, CA; Reliance Jio Infocomm Limited, Navi Mumbai, Maharashtra, INDIA; Samsung Electronics, Suwon-city, Gyeonggi-do, REPUBLIC OF KOREA; SanDisk, Sunnyvale, CA; Saphety Level—Trusted Services S.A., Lisboa, PORTUGAL; Scanbuy, Inc., New York, NY; Skylink Design, Inc., Pleasanton, CA; Solaiemes, Madrid, SPAIN; Speago Oy, Helsinki, FINLAND; Symantec, Culver City, CA; Telekom Austria AG, Vienna, AUSTRIA; Tile Data Processing Inc., Montreal, Quebec, CANADA; W2bi, Inc., Union, NJ; and Zebra Technologies Corporation, Chicago, IL; have withdrawn as parties to this venture.

In addition, the following members have changed their names: Comverse to Xura Tel Aviv, ISRAEL; and Research Institute of Telecommunications Transmission, MII China to China Academy of Telecommunication Research of MIIT, Beijing, PEOPLE'S REPUBLIC OF CHINA.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and OMA intends to file additional written notifications disclosing all changes in membership.

On March 18, 1998, OMA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 31, 1998 (63 FR 72333).

The last notification was filed with the Department on July 6, 2015. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on July 29, 2015 (80 FR 45234).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2016–16779 Filed 7–15–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Water Act

On July 11, 2016, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Southern District of Texas in the lawsuit entitled *United States* v. *Sunoco Pipeline L.P.*, Civil Action No. 3:16–cv–00178.

The Complaint against Sunoco Pipeline L.P. ("Defendant") alleges claims under sections 301 and 311 of the Clean Water Act, 33 U.S.C. 1311 and 1321, for two separate oil spills from Defendant's facilities into waters of the United States. The first discharge occurred between August 20 and August 26, 2009, at Defendant's Barbers Hill Station located near Mont Belvieu, Chambers County, Texas. The second discharge occurred on or about February 14, 2011, at Defendant's Cromwell Station located near Cromwell, Oklahoma. The Complaint seeks injunctive relief, pursuant to section 301(a) and 309(b) of the CWA, 33 U.S.C. 1311(a) and 1319(b), and civil penalties, pursuant to section 311(b) of the CWA, 33 U.S.C. 1321(b).

Under the proposed settlement, Sunoco will perform injunctive relief at its Barbers Hill Station, Cromwell Station, and 54 additional facilities that connect to Defendant's pipelines in Texas and Oklahoma and are otherwise similar to those facilities that experienced the spills. The proposed Consent Decree also requires Defendant to revise certain control room procedures and pay an $850,000 civil penalty to the United States.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Sunoco Pipeline L.P.*, D.J. Ref. No. 90–5–1–1–10074. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

---

[5] All contract personnel will sign appropriate nondisclosure agreements.

[6] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov*
By mail	Assistant Attorney General, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed Consent Decree may be examined and downloaded at this Justice Department Web site: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the proposed Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $14.00 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy requested without the exhibits and signature pages, the cost is $11.00.

Jeffrey Sands,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2016–16885 Filed 7–15–16; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–91,152; TA–W–91,152A]

Petrochoice, LLC, Chisholm, Minnesota, Petrochoice, LLC, Superior, Wisconsin; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on April 8, 2016, applicable to workers of PetroChoice, LLC, Chisholm, Minnesota. The Department's notice of determination was published in the **Federal Register** on January 11, 2016 (81 FR 1231).

At the request of the state workforce office, the Department reviewed the certification for workers of the subject firm. The workers are engaged in supplying lubrication and technician services. Workers are not separately identifiable by the service supplied.

The company reports that PetroChoice, LLC, Superior, Wisconsin (TA–W–91,152A) worked in conjunction with the workers of PetroChoice, LLC, Chisholm, Minnesota (TA–W–91,152) and were similarly affected.

The amended notice applicable to TA–W–91,152 is hereby issued as follows:

> All workers of PetroChoice, LLC, Chisholm, Minnesota (TA–W–91,152), and PetroChoice, LLC, Superior, Wisconsin (TA–W–91,152A), who became totally or partially separated from employment on or after November 17, 2014 through April 8, 2018, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 15th day of June, 2016.

Jessica R. Webster,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2016–16842 Filed 7–15–16; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–91,090]

AK Steel Corporation Ashland Works, a Subsidiary of AK Steel Holding Corporation Including Workers Whose Wages Were Reported Through RMI International and ESM Group Inc., Including On-Site Leased Workers From Manpower, Inc.; Atlas Industrial Contractors, Inc.; OMI Refractories, LLC DBA Bisco Refractories; Early Construction Company; Enerfab, Inc.; IBM Global Services; Marquis Terminal; Maxim Crane Works; May Contracting Inc.; Minteq International; Phoenix Teq—Ashland, LLC; Premise Health; Superior Environmental Solutions, Inc.; Stein, Inc., And Vesuvius USA Corporation Ashland, Kentucky; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on March 24, 2016, applicable to workers of AK Steel Corporation, Ashland Works, a subsidiary of AK Steel Holding Corporation, including workers whose wages were reported through RMI International and ESM Group Inc., including on-site leased workers from Manpower, Inc., Ashland, Kentucky. The Department's notice of determination was published in the Federal Register on April 26, 2016 (81 FR 24648).

At the request of the Commonwealth of Kentucky, the Department reviewed the certification for workers of the subject firm. The workers were engaged in activities related to the production of carbon steel slabs.

The company reports that workers leased from Atlas Industrial Contractors, Inc.; OMI Refractories, LLC dba Bisco Refractories; Early Construction Company; Enerfab, Inc.; IBM Global Services; Marquis Terminal; Maxim Crane Works; May Contracting Inc.; Minteq International; Phoenix TEQ—Ashland, LLC; Premise Health; Superior Environmental Solutions, Inc.; Stein, Inc., and Vesuvius USA Corporation were employed on-site at the Ashland, Kentucky location of AK Steel Corporation, Ashland Works, a subsidiary of AK Steel Holding Corporation, Ashland, Kentucky. The Department has determined that these workers were sufficiently under the control of the subject firm to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from Atlas Industrial Contractors, Inc.; OMI Refractories, LLC dba Bisco Refractories; Early Construction Company; Enerfab, Inc.; IBM Global Services; Marquis Terminal; Maxim Crane Works; May Contracting Inc.; Minteq International; Phoenix TEQ—Ashland, LLC; Premise Health; Superior Environmental Solutions, Inc.; Stein, Inc., and Vesuvius USA Corporation working on-site at the Ashland, Kentucky location of AK Steel Corporation, Ashland Works, a subsidiary of AK Steel Holding Corporation, Ashland, Kentucky.

The amended notice applicable to TA–W–91,090 is hereby issued as follows:

> All workers of AK Steel Corporation, Ashland Works, a subsidiary of AK Steel Holding Corporation, including workers whose wages were reported through RMI International and ESM Group Inc., including on-site leased workers from Manpower, Inc.;

Atlas Industrial Contractors, Inc.; OMI Refractories, LLC dba Bisco Refractories; Early Construction Company; Enerfab, Inc.; IBM Global Services; Marquis Terminal; Maxim Crane Works; May Contracting Inc.; Minteq International; Phoenix TEQ—Ashland, LLC; Premise Health; Superior Environmental Solutions, Inc.; Stein, Inc., and Vesuvius USA Corporation, Ashland, Kentucky, who became totally or partially separated from employment on or after October 26, 2014, through March 24, 2018, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 30th day of June, 2016.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2016–16832 Filed 7–15–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–91,070; TA–W–91,070A; TA–W–91,070B]

LPL Financial LLC, Business Technology Services Including On-Site Leased Workers From Insight Global, LLC, Sogeti, And SPS Providea San Diego, California; LPL FINANCIAL LLC, BUSINESS TECHNOLOGY SERVICES CHARLOTTE, NORTH CAROLINA LPL Financial LLC Business Technology Services Boston, Massachusetts; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (“Act”), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 20, 2016, applicable to workers of LPL Financial LLC, Business Technology Services, San Diego, California (TA–W–91,070); LPL Financial LLC, Business Technology Services, Charlotte, North Carolina (TA–W–91,070A); and LPL Financial LLC, Business Technology Services, Boston, Massachusetts (TA–W–91,070B). The Department's notice of determination was published in the **Federal Register** on March 24, 2016 (Vol. 81 FR 15747).

At the request of a state workforce office, the Department reviewed the certification for workers of the subject firm. The workers were engaged in activities related to the supply of financial services.

The company reports that workers leased from Insight Global, LLC, Sogeti, and SPS Providea were employed on-site at the San Diego, California location of LPL Financial LLC, Business Technology Services (TA–W–91,070). The Department has determined that these workers were sufficiently under the control of the subject firm to be considered leased workers.

Based on these findings, the Department is amending this certification (TA–W–91,070) to include workers leased from Insight Global, LLC, Sogeti, and SPS Providea working on-site at the San Diego, California location of LPL Financial LLC, Business Technology Services.

The amended notice applicable to TA–W–91,070 is hereby issued as follows:

> All workers of LPL Financial LLC, Business Technology Services, including on-site leased workers from Insight Global, LLC, Sogeti, and SPS Providea, San Diego, California, who became totally or partially separated from employment on or after October 22, 2014, through February 20, 2018, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 14th day of June, 2016.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2016–16835 Filed 7–15–16; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–90,125]

Owens-Brockway Glass Container, Inc., a Subsidiary of Owens-Brockway Packaging, Inc., a Subsidiary of Owens-Illinois Group, Inc., a Subsidiary of Owens-Illinois, Inc., Oakland, California; Notice of Affirmative Determination Regarding Application for Reconsideration

By application dated May 16, 2016, the United Steelworkers (USW) requested administrative reconsideration of the negative determination regarding workers' eligibility to apply for worker adjustment assistance applicable to workers and former workers of Owens-Brockway Glass Container Inc., a subsidiary of Owens-Brockway Packaging, Inc., a subsidiary of Owens-Illinois Group, Inc., a subsidiary of Owens-Illinois, Inc., Oakland, California. The determination was issued on April 15, 2016 and the Notice of Determination was published in the **Federal Register** on May 24, 2016 (81 FR 32787).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The initial investigation resulted in a negative determination based on the findings that there was no increase in imports by the workers' firm or its customers, nor was there a foreign shift or acquisition by the workers' firm or its customers. In addition, neither the workers' firm nor its customers reported imports of articles like or directly competitive with articles for which the article produced by the workers' firm were directly incorporated.

The request for reconsideration asserts that the subject firm continues to import from a foreign location like or directly competitive services while decreasing articles produced within the United States. The request for reconsideration included new facts.

The Department of Labor has carefully reviewed the request for reconsideration and the existing record, and has determined that the Department will conduct further investigation to determine if the workers meet the eligibility requirements of the Trade Act of 1974.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the U.S. Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 20th day of June 2016.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2016–16837 Filed 7–15–16; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–85,867; TA–W–85,867A]

Day & Zimmermann, Inc., Kansas Division, Parsons, Kansas; Day & Zimmermann Lone Star LLC, a Wholly Owned Subsidiary Of Day & Zimmermann Group, Inc., Including On-Site Leased Workers From Manpowergroup East Camden, Arkansas; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on April 3, 2015, applicable to workers of Day & Zimmermann, Inc., Kansas Division, Parsons, Kansas. The Department's notice of determination was published in the **Federal Register** on April 27, 2015 (80 FR 23295).

At the request of the Arkansas State Workforce Office, the Department reviewed the certification for workers of the subject firm. The workers are engaged in activities related to the production of mortars, primers, and fuzes for munitions.

New information shows that worker separations have occurred involving employees of Day & Zimmermann Lone Star LLC, a wholly owned subsidiary of Day & Zimmermann Group, Inc., including on-site leased workers from ManpowerGroup, East Camden, Arkansas. The employees support Day & Zimmermann, Inc., Kansas Division, Parsons, Kansas in the production of mortars, primers, and fuzes for munitions.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by an increase in customer imports of mortars.

Based on these findings, the Department is amending this certification to include employees of Day & Zimmermann Lone Star LLC, a wholly owned subsidiary of Day & Zimmermann Group, Inc., including on-site leased workers from ManpowerGroup, East Camden, Arkansas (TA–W–85,867A).

The amended notice applicable to TA–W–85,867 is hereby issued as follows:

> All workers of Day & Zimmermann, Inc., Kansas Division, Parsons, Kansas (TA–W–85,867) and Day & Zimmermann Lone Star LLC, a wholly owned subsidiary of Day & Zimmermann Group, Inc., including on-site leased workers from ManpowerGroup, East Camden, Arkansas (TA–W–85,867A), who became totally or partially separated from employment on or after March 6, 2014, through April 3, 2017, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 23rd day of May, 2016.

Jessica R. Webster,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2016–16839 Filed 7–15–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–91,211; TA–W–91,211A]

D+H USA Corporation, a Subsidiary of DH Corporation, Including On-Site Leased Workers From Alexander Connections, LLC and Volt, Including Workers Whose Unemployment Insurance (UI) Wages Are Reported Through Harland Financial Solutions, Inc., Portland, Oregon; D+H USA Corporation, a Subsidiary of DH Corporation, Including On-Site Leased Workers From Volt, Bothell, Washington; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 23, 2016, applicable to workers of D+H USA Corporation, a subsidiary of DH Corporation, including on-site leased workers from Alexander Connections, LLC and Volt, Portland, Oregon (TA–W–91,211) and D+H USA Corporation, a subsidiary of DH Corporation, including on-site leased workers from Volt, Bothell, Washington (TA–W–91,211A).

At the request of State Workforce Office, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the supply of client support, research and development and technical operations services.

New information shows that workers separated from employment at D+H USA Corporation, a subsidiary of DH Corporation, Portland, Oregon had their wages reported through a separate unemployment insurance (UI) tax account under the name Harland Financial Solutions, Inc. Harland Financial Solutions, Inc. changed its name to D+H USA Corporation.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by an acquisition of services from a foreign country of the supply of client support, research and development and technical operations services.

Accordingly, the Department is amending this certification to properly reflect this matter.

The amended notice applicable to TA–W–91,211 and TA–W–91,211A is hereby issued as follows:

> All workers of D+H USA Corporation, a subsidiary of DH Corporation, including on-site leased workers from Alexander Connections, LLC and Volt, including workers whose unemployment insurance (UI) wages are reported through Harland Financial Solutions, Inc., Portland, Oregon (TA–W–91,211) and D+H USA Corporation, a subsidiary of DH Corporation, including on-site leased workers from Volt, Bothell, Washington (TA–W–91,211A) who became totally or partially separated from who became totally or partially separated from employment on or after December 10, 2014, through February 23, 2018, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 27th day of June 2016.

Jessica R. Webster,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2016–16831 Filed 7–15–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–85,592]

Micro Power Electronics, Inc., a Division Of Electrochem Solutions, Inc., a Subsidiary of Greatbatch, LTD. Including On-Site Leased Workers From Aerotek, Superior Group, Superior Talent, Nesco and Northwest Staffing Beaverton, Oregon; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment

Assistance and Alternative Trade Adjustment Assistance on October 23, 2014, applicable to workers of Micro Power Electronics, Inc., a division of Electrochem Solutions, Inc., a subsidiary of Greatbatch, Ltd., including on-site leased workers from Aerotek and Superior Group, Beaverton, Oregon. The Department's notice of determination was published in the **Federal Register** on November 20, 2014 (79 FR 69134).

At the request of a State workforce office, the Department reviewed the certification for workers of the subject firm. The workers were engaged in activities related to the production of power supplies for medical, energy and military products. The company reports that workers leased from Superior Talent, Nesco and Northwest Staffing were employed on-site at the Beaverton, Oregon location of Micro Power Electronics, Inc., a division of Electrochem Solutions, Inc. The Department has determined that these workers were sufficiently under the control of the subject firm to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from Superior Talent, Nesco and Northwest Staffing working on-site at the Beaverton, Oregon location of Micro Power Electronics, Inc., a division of Electrochem Solutions, Inc.

The amended notice applicable to TA–W–85,592 is hereby issued as follows:

> All workers of Micro Power Electronics, Inc., a division of Electrochem Solutions, Inc., a subsidiary of Greatbatch, Ltd., including on-site leased workers from Aerotek, Superior Group, Superior Talent, Nesco and Northwest Staffing, Beaverton, Oregon, who became totally or partially separated from employment on or after October 10, 2013, through October 23, 2016, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 16th day of June, 2016.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2016–16838 Filed 7–15–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of *June 6, 2016 through June 24, 2016*.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) the increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) there has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) the shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) a significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(e) of the Act must be met.

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) an affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) an affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) an affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) the petition is filed during the 1-year period beginning on the date on which—

(A) a summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register**; and

(3) the workers have become totally or partially separated from the workers' firm within—

(A) the 1-year period described in paragraph (2); or

(B) not withstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
90,180	Results Customer Solutions, The Results Companies LLC	Lawrence, KS	January 1, 2014.
90,221	Niagara LaSalle Corporation, Optima Specialty Steel, Inc	Buffalo, NY	January 1, 2014.
90,239	PCS–CTS	Fremont, CA	January 1, 2014.
91,106	Woodgrain Millwork, Inc., Mid Oregon Personnel	Prineville, OR	November 3, 2014.
91,177	PTC Alliance, PTC Group Holdings LLC, Liken Services	Beaver Falls, PA	November 14, 2014.
91,251	Allegheny Ludlum, LLC, ATI Flat Rolled Products, Brackenridge Operations, Allegheny Technologies.	Brackenridge, PA	December 19, 2014.
91,315	Pacific States Plywood, Inc., Pacific States Industries, Inc., Superior Employment Agency, Inc.	Springfield, OR	January 7, 2015.
91,459	The Doe Run Resources Corporation, Mining and Milling Division	St. Louis, MO	February 10, 2015.
91,459A	The Doe Run Resources Corporation, Mining and Milling Division	Ellington, MO	February 10, 2015.
91,459B	The Doe Run Resources Corporation, Mining and Milling Division, All Type Contracting LLC, etc.	Viburnum, MO	February 10, 2015.
91,470	Titan Tire of Freeport, Inc., Titan International, Inc	Freeport, IL	February 12, 2015.
91,501	Lumina Datamatics	Harrisburg, PA	February 23, 2015.
91,692	Superior Graphite Company	Russellville, AR	April 12, 2015.
91,712	CF&I Steel LP DBA Evraz Rocky Mountain Steel, Evraz PLC	Pueblo, CO	April 15, 2015.
91,767	Mount Vernon Mills Cuero Plant, R.B. Pamplin Corporation	Cuero, TX	April 13, 2015.
91,773	CH2M Hill Engineers, Inc., CH2M Hill, Inc., CH2M Hill Constructors, Inc., CH2M Hill Engineering Services, etc.	Bellingham, WA	May 3, 2015.
91,796	Remington Outdoor Company, Firearms Division, Remington Outdoor Company, Inc., Temp Plus.	Hickory, KY	May 11, 2015.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
90,098	Quest Diagnostics, IT Helpdesk Reporting Under IT Division, Teksystems.	St. Louis, MO	January 1, 2014.
90,117	Nordyne LLC, Subsidiary of Nortek Global HAVC LLC	St. Louis, MO	January 1, 2014.
90,142	John Deere Seeding Group—Moline, IL, A Manufacturing Unit within Deere & Company.	Moline, IL	January 1, 2014.
90,268	Computer Science Corporation, Division of GBS Application Managed Services—Diversified.	Webster, NY	January 1, 2014.
90,285	Alleson of Rochester, Inc., Alleson Athletic Division	Geneva, NY	January 1, 2014.
90,306	Verizon Business Network Service, Inc., Conferencing Operations	Cedar Rapids, IA	January 1, 2014.
91,078	Atlas Database Software Corporation, DBA Atlas Development Corporation, Roper Technologies, Inc.	Calabasas, CA	October 27, 2014.
91,393	Sprint Information Technology Group, 6100 and 6180 Sprint Parkway, Amdocs, etc.	Overland Park, KS	January 26, 2015.
91,431	Amgen, Inc., Global Business Services Group, Amgen, Appleone, US Tech Solutions, etc.	Thousand Oaks, CA	February 3, 2015.
91,516	International Business Machines Corporation (IBM), Regulatory Services, Global Technology Services Division, etc.	Poughkeepsie, NY	February 25, 2015.
91,516A	International Business Machines Corporation (IBM), Regulatory Services, Global Technology Services Division (GTS).	Tallahassee, FL	February 25, 2015.
91,516B	International Business Machines Corporation (IBM), Regulatory Services, Global Technology Services Division (GTS).	Atlanta, GA	February 25, 2015.
91,516C	International Business Machines Corporation (IBM), Regulatory Services, Global Technology Services Division (GTS).	Minneapolis, MN	February 25, 2015.
91,516D	International Business Machines Corporation (IBM), Regulatory Services, Global Technology Services Division (GTS).	Jericho, NY	February 25, 2015.

TA–W No.	Subject firm	Location	Impact date
91,516E	International Business Machines Corporation (IBM), Regulatory Services, Global Technology Services Division (GTS).	Indianapolis, IN	February 25, 2015.
91,516F	International Business Machines Corporation (IBM), Regulatory Services, Global Technology Services Division (GTS).	Boulder, CO	February 25, 2015.
91,521	Digital Intelligence Systems LLC, M.A. Holding Corp. and Weston Presidio, American Unit, Inc., etc.	McLean, VA	February 23, 2015.
91,536	Kennametal, Inc., Internal Information Technology, TekSystems & Software Specialists.	Latrobe, PA	February 22, 2015.
91,567	Titan Tire Corporation of Bryan, Titan International, Inc., PER MAR Security Services and Elwood Staffing.	Bryan, OH	March 8, 2015.
91,573	nLight, Inc., Division of Laser Components Manufacturing	Vancouver, WA	February 16, 2015.
91,623	Experian, Credit Services, Experian Data Quality, Global Product Development.	Costa Mesa, CA	April 5, 2015.
91,623A	Allegis Global Solutions, Experian, Credit Services—Experian Data Quality, etc.	Costa Mesa, CA	March 22, 2015.
91,628	McGuane Industries, Inc., Qualitor, Inc	Burton, MI	March 23, 2015.
91,714	United Technologies Electronic Controls, Inc., Aerotek, Kelly Services, and Robert Half.	Huntington, IN	April 19, 2015.
91,715	AECOM, Energy, Infrastructure & Industrial Construction (EIC) Division, etc.	Boise, ID	April 19, 2015.
91,717	3M, Consumer Health Care Division, Volt	Milford, OH	April 20, 2015.
91,725	General Electric Company, Transportation Division, Adecco, CH2M Hill, GGS Information Services, etc.	Erie, PA	June 4, 2016.
91,725A	3M Industrial, A–D Technology, AVI Foodsystems, AXIS Solution, Birlasoft, Inc., Bosch Service Solutions, Cincinnati Bell Technology, etc.	Erie, PA	April 21, 2015.
91,744	Plasti-Kote Company, Inc., Consumer Business Group, The Valspar Corporation, Adecco and Kelly Services.	Medina, OH	April 26, 2015.
91,752	The McClatchy Company, Technology Division	Sacramento, CA	April 27, 2015.
91,752A	The McClatchy Company, Technology Division	Fresno, CA	April 27, 2015.
91,752AA	The McClatchy Company, Technology Division	Kennewick, WA	April 27, 2015.
91,752B	The McClatchy Company, Technology Division	Merced, CA	April 27, 2015.
91,752BB	The McClatchy Company, Technology Division	Washington, DC	April 27, 2015.
91,752C	The McClatchy Company, Technology Division	Modesto, CA	April 27, 2015.
91,752D	The McClatchy Company, Technology Division	San Luis Obispo, CA	April 27, 2015.
91,752E	The McClatchy Company, Technology Division	Bradenton, FL	April 27, 2015.
91,752F	The McClatchy Company, Technology Division	Miami, FL	April 27, 2015.
91,752G	The McClatchy Company, Technology Division	Columbus, GA	April 27, 2015.
91,752H	The McClatchy Company, Technology Division	Macon, GA	April 27, 2015.
91,752I	The McClatchy Company, Technology Division	Boise, ID	April 27, 2015.
91,752J	The McClatchy Company, Technology Division	Belleville, IL	April 27, 2015.
91,752K	The McClatchy Company, Technology Division	Wichita, KS	April 27, 2015.
91,752L	The McClatchy Company, Technology Division	Lexington, KY	April 27, 2015.
91,752M	The McClatchy Company, Technology Division	Gulfport, MS	April 27, 2015.
91,752N	The McClatchy Company, Technology Division	Kansas City, MO	April 27, 2015.
91,752O	The McClatchy Company, Technology Division	Charlotte, NC	April 27, 2015.
91,752P	The McClatchy Company, Technology Division, Robert Half Technology	Raleigh, NC	April 27, 2015.
91,752Q	The McClatchy Company, Technology Division	State College, PA	April 27, 2015.
91,752R	The McClatchy Company, Technology Division	Beaufort, SC	April 27, 2015.
91,752S	The McClatchy Company, Technology Division	Rock Hill, SC	April 27, 2015.
91,752T	The McClatchy Company, Technology Division	Bluffton, SC	April 27, 2015.
91,752U	The McClatchy Company, Technology Division	Columbia, SC	April 27, 2015.
91,752V	The McClatchy Company, Technology Division	Myrtle Beach, SC	April 27, 2015.
91,752W	The McClatchy Company, Technology Division	Fort Worth, TX	April 27, 2015.
91,752X	The McClatchy Company, Technology Division	Bellingham, WA	April 27, 2015.
91,752Y	The McClatchy Company, Technology Division	Olympia, WA	April 27, 2015.
91,752Z	The McClatchy Company, Technology Division	Tacoma, WA	April 27, 2015.
91,765	St. Peter's Health Partners (SPHP) Transcription Department, Health Information Management Operations, Trinity Health.	Albany, NY	May 2, 2015.
91,794	Borets U.S., Inc., Borets International Ltd., Accounting Principals and Robert Half.	Tulsa, OK	April 29, 2015.
91,803	VF Contemporary Brands, VF Corporation, Division of 7 for All Mankind-Sewing, Warphire and Volt.	Los Angeles, CA	May 12, 2015.
91,821	Siemens Medical Solutions USA, Inc., Refurbishing Division, Randstad Source Right.	Wood Dale, IL	May 18, 2015.
91,847	Teledyne Blueview, Inc., Teledyne Instruments, Inc., Teledyne Technologies, Aerotek.	Bothell, WA	May 23, 2015.
91,848	United States Steel Corporation, Division of Transaction Processing, UBICS, ITPI Staffing, etc.	Pittsburgh, PA	May 24, 2015.
91,848A	United States Steel Corporation, Division of Transaction Processing, ITPI Staffing, and Kelly Services, Inc.	Pittsburgh, PA	May 24, 2015.
91,852	Howden North America Inc., Shared Services, New Build, Aftermarket Division, Colfax Corp., Accountemps.	Columbia, SC	May 24, 2015.
91,854	Polartec LLC, Pipevine MMI Holdings, LLC, Moore Staffing, etc	Lawrence, MA	May 25, 2015.

TA–W No.	Subject firm	Location	Impact date
91,859	MSE Technologies LLC, Clover Technologies Group LLC, Temp Depot AKA 1st Choice Staffing, etc.	Van Nuys, CA	May 25, 2015.
91,866	Chandler Industries, Chandler Industries, Inc., Aerotek, Employment Solutions, PMG, etc.	Littleton, CO	May 27, 2015.
91,869	MechoShade Systems, f/k/a MechoShade West, Inc., Spring Window Fashions, Elwood Staffing, etc.	Phoenix, AZ	May 31, 2015.
91,871	Sun Dental Labs, LLC, Sun Dental Holdings, LLC, Paycheck PEO III, LLC.	St. Petersburg, FL	June 1, 2015.
91,873	Applegate Livestock Equipment Inc., AG Growth International, Inc., PRO Resources, Staffmark & Elwood Staffing.	Union City, IN	June 1, 2015.
91,873A	Applegate, Ideal Division, AG Growth International, Inc	Jefferson, IA	June 1, 2015.
91,879	Cal-Comp USA (Indiana) INC, f/k/a Total Electronics, Cal-Com (USA) Co. LTD, Numbers and Words, Inc.	Logansport, IN	June 3, 2015.
91,880	MTE Corporation, SL Industries	Menomonee Falls, WI.	June 3, 2015.
91,886	Delta Apparel, Inc	Maiden, NC	June 7, 2015.
91,887	Foster Needle Company, Inc., Groz Beckert KG, ABR Employment Services.	Manitowoc, WI	June 7, 2015.
91,911	Ametek, Engineered Medical Components (EMC), etc	Tigard, OR	June 10, 2015.
91,917	Amarillo College of Hairdressing, D/B/A Milan Institute & Milan Institute of Cosmetology, Call Center.	Amarillo, TX	June 13, 2015.
91,935	Triumph Group, Inc., Triumph Aerostructures—Vought Aircraft Division, Johnson Service Group.	Nashville, TN	June 17, 2015.

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
91,311	Lakehead Constructors, Inc., Concrete Sawing Services, A.W. Kuettel & Sons, Northern Industrial, etc.	Mt. Iron, MN	January 7, 2015.
91,336	Spirit Aerosystems, Inc., Butler America, CTS International, Forster Design, HI-TEK, etc.	Wichita, KS	October 19, 2015.
91,336A	Spirit Aerosystems, Inc., Launch Technical Services, Belcan Corporation, Donatech, etc.	Wichita, KS	January 12, 2015.
91,474	Lee Aerospace, Inc., LSI Staffing	Wichita, KS	February 16, 2015.

The following certifications have been issued. The requirements of Section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
91,267	Stone Transport, L.P	Saginaw, MI	December 29, 2014.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criteria under paragraphs (a)(2)(A)(i) (decline in sales or production, or both) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
90,195	Peel Technologies, Akraya, Inc	Mountain View, CA.	
91,274	Cummins, Inc., Express Employment and Office Team	Portland, OR.	
91,433	Strike, LLC, D/B/A Strike Construction, LLC, Division 114—Instrumentation, etc.	The Woodlands, TX.	
91,543	Mayflower Vehicle Systems, LLC, Commercial Vehicle Group, Inc., Personnel Temp Services.	Shadyside, OH.	

The investigation revealed that the criteria under paragraphs (a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
90,020	AT&T Mobility Services LLC	Springfield, IL.	
90,022	Great Lakes Chemical Company, F/K/A Bio-Lab Inc., Chemtura Corp., Adecco, Manpower, Trillium and Fasco.	Adrian, MI.	
90,029	Premier Nutrition Corporation, Powerbar Division, Post Holdings, Inc., Post Foods, LLC, Adecco Staffing.	Boise, ID.	
90,252	Globe Energy Services	Owasso, OK	
90,333	WestRock (Iowa City Assembly), Merchandising Displays, Sedona Staffing and CFA.	Iowa City, IA.	
91,047	Big Strike, LLC, Arlington Global Financial, Ltd., Gores Group, AMR Staffing, 24 Seven, etc.	Gardena, CA.	
91,083	Voith Paper Fabric and Rolls Systems, Inc., Voith Paper, Inc., Voith Holding, Inc., Manpower.	Neenah, WI	
91,171	Safilo USA, Inc., Express Employment Professionals	Parsippany, NJ.	
91,241	Ensign United States Drilling Inc., Ensign Energy Services Inc	Denver, CO.	
91,288	Shopko Stores Operating Co., LLC, SKO Group Holding, LLC	Omaha, NE.	
91,319	Zup's	Aurora, MN.	
91,341	Capco Machinery Systems, Inc	Roanoke, VA.	
91,373	McGovern Metals Co. Inc	Roseburg, OR.	
91,419	LCT Energy, L.P., GMS Mine Repair & Maintenance	Johnstown, PA.	
91,420	Panasonic Appliances Company of America, Panasonic Corporation of North America.	Danville, KY.	
91,420A	Panasonic Appliances Company of America, Panasonic Corporation of North America.	Rolling Meadows, IL.	
91,478	Climax Molybdenum Company Henderson Mine, Freeport-McMoRan Corporation, Geotemps and TK Mining Services.	Empire, CO.	
91,478A	Climax Molybdenum Company Henderson Mill, Freeport-McMoRan Corporation, Geotemps and TK Mining Services.	Parshall, CO.	
91,573A	nLight, Inc., Division of Laser Systems Manufacturing, Ultimate Staffing	Vancouver, WA.	
91,655	Baker Hughes Incorporated, Wireline Services Southern Geomarket Division.	Victoria, TX.	
91,655A	Baker Hughes Incorporated, Wireline Services Southern Geomarket Division.	Alice, TX.	
91,655B	Baker Hughes Incorporated, Wireline Services Southern Geomarket Division.	Edinburg, TX.	
91,716	Trican Well Services, L.P	Odessa, TX.	
91,740	Xerox, Global Technology Delivery Group (GTDG), Large Enterprise Organization, etc.	Wilsonville, OR.	
91,745	Devon Energy Production Company, L.P	Oklahoma City, OK.	
91,790	Cenntro Automotive Corporation, Cenntro Automotives Group Limited, Applied Staffing Solutions, LLC.	Sparks, NV.	

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA–W No.	Subject firm	Location	Impact date
90,105	Intel Corporation, Ronier Acres Campus	Hillsboro, OR.	
91,255	DMI International, Inc. and Dieco Manufacturing, Inc	Tulsa, OK.	
91,255A	DMI International, Inc. and Dieco Manufacturing, Inc	Mill Hall, PA.	
91,916	Control Devices, LLC, f/k/a Flexi-Hinge Valve Co., Inc	Fairview, PA.	

The following determinations terminating investigations were issued in cases where these petitions were not filed in accordance with the requirements of 29 CFR 90.11. Every petition filed by workers must be signed by at least three individuals of the petitioning worker group. Petitioners separated more than one year prior to the date of the petition cannot be covered under a certification of a petition under Section 223(b), and therefore, may not be part of a petitioning worker group. For one or more of these reasons, these petitions were deemed invalid.

TA–W No.	Subject firm	Location	Impact date
91,856	Oklahoma Department of Human Services, Comanche County Human Services Center.	Lawton, OK.	

The following determinations terminating investigations were issued because the petitioning groups of workers are covered by active certifications. Consequently, further investigation in these cases would serve no purpose since the petitioning group of workers cannot be covered by more than one certification at a time.

TA–W No.	Subject firm	Location	Impact date
91,034	Covidien LP	Mansfield, MA.	
91,306	Micro Power Electronics, Inc., Electrochem Solutions, Inc., Greatbatch, Ltd., Aerotek, Superior Group, etc.	Beaverton, OR.	
91,670	LPL Financial LLC, Business Technology Services, Insight Global, LLC	San Diego, CA.	
91,679	Alleson of Rochester, Inc., Alleson Athletic Division	Geneva, NY.	
91,746	PetroChoice, LLC	Superior, WI.	
91,832	Kennametal, Inc., Technology Group, Remote/Office in Home Workers	Latrobe, PA.	
91,944	Static Control Components, Inc	Sanford, NC.	

The following determinations terminating investigations were issued because the petitions are the subject of ongoing investigations under petitions filed earlier covering the same petitioners.

TA–W No.	Subject firm	Location	Impact date
91,649	Vigo Coal Company	Boonville, IN.	
91,649A	Vigo Coal Company	Mount Carmel, IL.	

I hereby certify that the aforementioned determinations were issued during the period of *June 6, 2016 through June 24, 2016.* These determinations are available on the Department's Web site *https://www.doleta.gov/tradeact/taa/taa_search_form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington, DC, this 11th day of February 2016.

Jessica R. Webster,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2016–16841 Filed 7–15–16; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–91,030]

Mitsubishi Motors North America, Inc., A Subsidiary of Mitsubishi Motors Corporation Manufacturing Division, Including On-Site Leased Workers From ETG, HRU Technical Resources, Kelly Temporary Services, Randstad Technologies (Formerly Technisource), STL Commercial Staffing (Formerly Firstaff), MPW Industrial Services, and Allied Barton Security Services, Normal, Illinois; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on November 13, 2015, applicable to workers of Mitsubishi Motors North America, Inc., a subsidiary of Mitsubishi Motors Corporation, Manufacturing Division, including on-site leased workers from ETG, HRU Technical Resources, Kelly Temporary Services, Randstad Technologies (formerly Technisource) and STL Commercial Staffing (formerly Firstaff), Normal, Illinois. The Department's notice of determination was published in the **Federal Register** on January 11, 2016 (81 FR 1227). The Department of Labor issued an amended Certification of Eligibility to Apply for Worker Adjustment Assistance on February 28, 2016, applicable to workers of Mitsubishi Motors North America, Inc., a subsidiary of Mitsubishi Motors Corporation, Manufacturing Division, including on-site leased workers from ETG, HRU Technical Resources, Kelly Temporary Services, Randstad Technologies (formerly Technisource) STL Commercial Staffing (formerly Firstaff), and MPW Industrial Services, Normal, Illinois. The Department's notice of determination was published in the **Federal Register** on April 15, 2016 (81 FR 22317).

At the request of Mitsubishi Motors North America, Inc., the Department reviewed the certification for workers of the subject firm. New information from the company official shows that workers leased from Allied Barton Security Services were employed on-site at the Normal, Illinois location of Mitsubishi Motors North America, Inc., a subsidiary of Mitsubishi Motors Corporation, Manufacturing Division.

The Department has determined that these workers were sufficiently under the operational control of Mitsubishi Motors North America, Inc., a subsidiary of Mitsubishi Motors Corporation, Manufacturing Division, Normal, Illinois to be considered leased workers.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by a shift in production to a foreign country of passenger automobiles or articles like or directly competitive.

Based on these findings, the Department is amending this certification to include workers leased from Allied Barton Security Services working on-site at the Normal, Illinois location of the subject firm.

The amended notice applicable to TA–W–91,030 is hereby issued as follows:

> All workers from Mitsubishi Motors North America, Inc., a subsidiary of Mitsubishi Motors Corporation, Manufacturing Division, including on-site leased workers from ETG, HRU Technical Resources, Kelly Temporary Services, Randstad Technologies (formerly Technisource), STL Commercial Staffing (formerly Firstaff), MPW Industrial Services, and Allied Barton Security Services, Normal, Illinois who became totally or partially separated from employment on or after October 6, 2014 through November 13, 2017, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 14th day of June, 2016.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2016–16836 Filed 7–15–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, no later than July 28, 2016.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 28, 2016.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 27th day of June 2016.

Jessica R. Webster,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[81 TAA petitions instituted between 6/6/16 and 6/24/16]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
91878	TRUMPF Photonics (State/One-Stop)	Cranbury, NJ	06/06/16	05/31/16
91879	Cal-Comp USA (Indiana) INC (Workers)	Logansport, IN	06/06/16	06/03/16
91880	MTE Corporation (Workers)	Menomonee Falls, WI	06/06/16	06/03/16
91881	WESTAK/Qualitek Inc. (State/One-Stop)	Forest Grove, OR	06/06/16	06/03/16
91882	SPX Flow Technology, Copes-Vulcan (Workers)	McKean, PA	06/07/16	06/06/16
91883	Hyundai Ideal Electric Company (Union)	Mansfield, OH	06/07/16	06/06/16
91884	Kahlenberg Industries (Union)	Two Rivers, WI	06/07/16	06/06/16
91885	Caterpillar Inc. (Company)	Joliet, IL	06/07/16	06/06/16
91886	Delta Apparel, Inc. (Company)	Maiden, NC	06/08/16	06/07/16
91887	Foster Needle Company, Inc. (Company)	Manitowoc, WI	06/08/16	06/07/16
91888	T-Systems North America, Inc. (State/One-Stop)	Tempe, AZ	06/08/16	06/07/16
91889	Siemens Corporate (Workers)	Buffalo Grove, IL	06/08/16	05/12/16
91890	MI Swaco (Drilling Fluids) (Workers)	New Orleans, LA	06/09/16	06/08/16
91891	Tokyo Ohka Kogyo America, Inc. (State/One-Stop)	Hillsboro, OR	06/09/16	06/08/16
91892	CDK Global, LLC (State/One-Stop)	Portland, OR	06/09/16	06/08/16
91893	Sez Sew Stitching, Inc. (Workers)	Osceola Mills, PA	06/09/16	06/07/16
91894	Brake Parts Inc. (Workers)	Chowchilla, CA	06/09/16	06/08/16
91895	Jones Energy, Inc. (Workers)	Austin, TX	06/10/16	05/23/16
91896	Perion Network LTD. (Smilebox) (State/One-Stop)	Redmond, WA	06/10/16	06/08/16
91897	Intel (State/One-Stop)	Aloha, OR	06/10/16	06/09/16
91898	Intel (State/One-Stop)	Aloha, OR	06/10/16	06/09/16
91899	Intel (State/One-Stop)	Hillsboro, OR	06/10/16	06/09/16
91900	Intel (Hawthorn Farm) (State/One-Stop)	Hillsboro, OR	06/10/16	06/09/16
91901	Intel (State/One-Stop)	Hillsboro, OR	06/10/16	06/09/16
91902	Intel (State/One-Stop)	Hillsboro, OR	06/10/16	06/09/16
91903	Tree Line, Inc (State/One-Stop)	Chester, ME	06/10/16	06/09/16
91904	Nielsen (State/One-Stop)	Oldsmar, FL	06/10/16	06/09/16
91905	Aveda (Hodges Trucking) (State/One-Stop)	Oklahoma City, OK	06/10/16	06/09/16
91906	Hewlett-Packard (State/One-Stop)	New Port Richey, FL	06/10/16	06/10/16
91907	John Deere—Davenport Works (State/One-Stop)	Davenport, IA	06/13/16	06/10/16
91908	John Deere—Dubuque Works (State/One-Stop)	Dubuque, IA	06/13/16	06/10/16
91909	John Deere—Ottumwa Works (State/One-Stop)	Ottumwa, IA	06/13/16	06/10/16
91910	WireCo World Group (State/One-Stop)	Chillicothe, MO	06/13/16	06/13/16
91911	Ametek (State/One-Stop)	Tigard, OR	06/13/16	06/10/16
91912	Twin Rivers Paper Company (Union)	Madawaska, ME	06/13/16	06/10/16
91913	Helmerich & Payne Drilling Co. (Workers)	Tulsa, OK	06/13/16	06/12/16
91914	Ocwen Financial Corporation (Company)	Coppell, TX	06/13/16	06/10/16
91915	DST Systems, Inc. (State/One-Stop)	Baltimore, MD	06/13/16	06/13/16
91916	Control Devices, LLC (Workers)	Fairview, PA	06/14/16	06/13/16
91917	Amarillo College of Hairdressing (State/One-Stop)	Amarillo, TX	06/14/16	06/13/16
91918	GE Oil and Gas (Lufkin Industries) (State/One-Stop)	Lufkin, TX	06/14/16	06/13/16
91919	Gerdeau (State/One-Stop)	Wilton, IA	06/14/16	06/14/16
91920	Compucom Systems, Inc., Technical Help Desk Support (State/One-Stop).	Dallas, TX	06/15/16	06/14/16
91921	Centrex Revenue Solutions (Workers)	Ellicott City, MD	06/15/16	06/14/16

APPENDIX—Continued

[81 TAA petitions instituted between 6/6/16 and 6/24/16]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
91922	Seattle-Snohomish Sawmill Co. Inc. (State/One-Stop)	Snohomish, WA	06/15/16	06/14/16
91923	Experian (Workers)	Allen, TX	06/15/16	06/14/16
91924	Mattel (State/One-Stop)	El Segundo, CA	06/15/16	06/14/16
91925	Paragon Geophysical Services Inc. (State/One-Stop)	Wichita, KS	06/15/16	06/14/16
91926	MetalTek International—Southern Centrifugal Division (Company).	Chattanooga, TN	06/15/16	06/15/16
91927	DIRECTV/AT&T (Workers)	Tulsa, OK	06/16/16	06/15/16
91928	Caterpillar Work Tools Inc./Balderson (Company)	Jacksonville, FL	06/16/16	06/15/16
91929	Sandvik, Inc. (Company)	Stafford, TX	06/16/16	06/16/16
91930	IBM (State/One-Stop)	Colorado Springs, CO	06/16/16	06/15/16
91931	Cascade Auto Recycling/Cascade Auto Recycler LLC (State/One-Stop).	Springfield, OR	06/17/16	06/16/16
91932	Continental Casualty Co. (CNA Insurance) (State/One-Stop)	Syracuse, NY	06/17/16	06/16/16
91933	Panasonic Avionics Corpration (Workers)	Coppell, TX	06/17/16	06/17/16
91934	Whirlpool Corp. (State/One-Stop)	Benton Harbor, MI	06/17/16	06/17/16
91935	Triumph Group, Inc. (State/One-Stop)	Nashville, TN	06/17/16	06/17/16
91936	REA Magnet Wire (State/One-Stop)	Osceola, AR	06/20/16	06/17/16
91937	Brookfield Global Relocation Services (State/One-Stop)	Scottsdale, AZ	06/21/16	06/20/16
91938	Fiat Chrysler Automobiles (Union)	Sterling Heights, MI	06/21/16	06/20/16
91939	Graphic Packaging International (Union)	Menasha, WI	06/21/16	06/20/16
91940	Halliburton Sperry Drilling Services (State/One-Stop)	Bakersfield, CA	06/21/16	06/20/16
91941	Mega Power Inc. (Company)	Hickory, KY	06/21/16	06/20/16
91942	SM Energy (Midcontinent, Tulsa) (Workers)	Tulsa, OK	06/21/16	05/18/16
91943	ALM Media LLC (State/One-Stop)	New York, NY	06/22/16	06/21/16
91944	Static Control Components, Inc. (Workers)	Sanford, NC	06/22/16	06/20/16
91945	Kennametal Inc. (State/One-Stop)	Houston, TX	06/22/16	06/21/16
91946	York Metal Toll Processing (State/One-Stop)	Syracuse, NY	06/22/16	06/21/16
91947	Jennmar (Workers)	Cresson, PA	06/22/16	06/21/16
91948	Cascades Holdings US Inc. (Company)	Waterford, NY	06/23/16	06/22/16
91949	Align Networks, A Division of One Call Care Management (Workers).	Canonsburg, PA	06/23/16	06/22/16
91950	Corbis Corporation (State/One-Stop)	Seattle, WA	06/23/16	06/20/16
91951	Noranda Alumina, LLC (Company)	Gramercy, LA	06/23/16	06/21/16
91952	Maersk Line (Company)	Oakbrook Terrace (please also include info for other locations), IL.	06/23/16	05/26/16
91953	Mercer Lime Co. (Union)	Slippery Rock, PA	06/23/16	06/06/16
91954	Siemens (Workers)	Orlando, FL	06/24/16	06/23/16
91955	ARRIS Group, Inc. (State/One-Stop)	Suwanee, GA	06/24/16	06/23/16
91956	ITW Filtration Products (Company)	Mazon, IL	06/24/16	06/23/16
91957	Joy Global Inc. (Workers)	Eighty Five, PA	06/24/16	06/23/16
91958	ClearOne Inc. (Workers)	Salt Lake City, UT	06/24/16	06/22/16

[FR Doc. 2016–16830 Filed 7–15–16; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Office of the Secretary

United States-Colombia Trade Promotion Agreement; Notice of Determination Regarding Review of Submission #2016–02

AGENCY: Bureau of International Labor Affairs, U.S. Department of Labor.

ACTION: Notice.

SUMMARY: The Office of Trade and Labor Affairs (OTLA) gives notice that on July 15, 2016, Submission #2016–02 regarding Colombia was accepted for review pursuant to Article 17.5.5 of the United States-Colombia Trade Promotion Agreement (CTPA). On May 16, 2015, the American Federation of Labor and Congress of Industrial Organizations and five Colombian workers' and civil society organizations provided a formal submission to OTLA alleging violations of Chapter 17 (the Labor Chapter) of the CTPA by the Government of Colombia (GOC). The submission alleges that the GOC has failed to effectively enforce its labor laws through a sustained and recurring course of action or inaction in a manner that affects trade or investment; waived or otherwise derogated from its statutes or regulations in a manner affecting trade or investment; failed to adopt and maintain in its statutes and regulations, and practices thereunder, the rights as stated in the International Labor Organization Declaration on Fundamental Principles and Rights at Work (ILO Declaration); failed to ensure the proceedings in its administrative, judicial, or labor tribunals are transparent and do not entail unwarranted delays; and failed to ensure that final decisions in such proceedings are made available without undue delay.

OTLA's decision to accept the submission for review does not indicate any determination as to the validity or accuracy of the allegations contained in the submission. The objective of the review will be to gather information so that OTLA can better understand the allegations contained in the submission and publicly report on the issues raised therein in light of the GOC's obligations under the Labor Chapter of the CTPA. As set out in the Procedural Guidelines (published as 71 FR 76691, December 21,2006), OTLA will complete the

review and issue a public report to the Secretary of Labor within 180 days of this acceptance, unless circumstances, as determined by OTLA, require an extension of time.

DATES: Effective July 15, 2016.

FOR FURTHER INFORMATION CONTACT: Matthew Levin, Director, OTLA, U.S. Department of Labor, 200 Constitution Avenue NW., Room S–5303, Washington, DC 20210. Telephone: (202) 693–4900. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Article 17.5 of the Labor Chapter of the CTPA establishes that each Party's contact point shall provide for the submission, receipt, and consideration of communications ("submissions") on matters related to the Labor Chapter and each Party shall review those submissions in accordance with domestic procedures. A **Federal Register** notice issued on December 21, 2006, informed the public that OTLA had been designated as the office to serve as the contact point for implementing the labor provisions of United States free trade agreements. The same **Federal Register** notice informed the public of the Procedural Guidelines that OTLA would follow for the receipt and review of public submissions (71 FR 76691, December 21, 2006). These Procedural Guidelines are available at *http://www.dol.gov/ilab/media/pdf/2006021837.pdf.* According to the definitions contained in the Procedural Guidelines (Section B) a "submission" is "a communication from the public containing specific allegations, accompanied by relevant supporting information, that another Party has failed to meet its commitments or obligations arising under a labor chapter" of a U.S. free trade agreement.

The Procedural Guidelines specify that OTLA shall consider six factors, to the extent that they are relevant, in determining whether to accept a submission for review:

1. Whether the submission raises issues relevant to any matter arising under a labor chapter;
2. Whether a review would further the objectives of a labor chapter;
3. Whether the submission clearly identifies the person filing the submission, is signed and dated, and is sufficiently specific to determine the nature of the request and permit an appropriate review;
4. Whether the statements contained in the submission, if substantiated, would constitute a failure of the other Party to comply with its obligations or commitments under a labor chapter;
5. Whether the statements contained in the submission or available information demonstrate that appropriate relief has been sought under the domestic laws of the other Party, or that the matter or a related matter is pending before an international body; and
6. Whether the submission is substantially similar to a recent submission and significant, new information has been furnished that would substantially differentiate the submission from the one previously filed.

U.S. Submission #2016–02 alleges that the GOC has failed to effectively enforce its labor laws through a sustained or recurring course of inaction or action in a manner that affects trade or investment; waived or otherwise derogated from its statutes or regulations in a manner affecting trade or investment; failed to adopt and maintain in its statutes and regulations, and practices thereunder, the rights as stated in the ILO Declaration; failed to ensure the proceedings in its administrative, judicial, or labor tribunals are transparent and do not entail unwarranted delays; and failed to ensure that final decisions from its administrative, judicial, or labor tribunals are made available without undue delay. The submission cites two specific cases to support its allegations.

In determining whether to accept the submission, OTLA considered the statements in the submission in light of the relevant factors identified in the Procedural Guidelines. The submission raises issues relevant to the Labor Chapter of the CTPA because it alleges that GOC failed to effectively enforce its labor laws through a sustained or recurring course of inaction or action in a manner that affects trade or investment; waived or otherwise derogated from its statutes or regulations in a manner affecting trade or investment; failed to adopt and maintain in its statutes and regulations, and practices thereunder, the rights as stated in the ILO Declaration; failed to ensure the proceedings in its administrative, judicial, or labor tribunals are transparent and do not entail unwarranted delays; and failed to ensure that final decisions from its administrative, judicial, or labor tribunals are made available without undue delay. It also clearly identifies the submitter and is sufficiently specific to determine the nature of the request and permit an appropriate review. The submission raises pertinent issues that could further the objectives of the Labor Chapter and that could, if substantiated, constitute a failure of the GOC to comply with its obligations under the Labor Chapter. The submitters provided information on specific cases of alleged labor violations and included citations to Colombian law and other relevant legal instruments that they believe were violated by the allegations in the submission. The submitters provided information on efforts to seek appropriate relief for these alleged violations under domestic laws and to raise the issues with GOC officials and with the ILO. The submission also notes that the issues raised in the submission have not been remedied to date. OTLA has not received similar submissions related to the CTPA obligations of the GOC. Accordingly, OTLA has accepted the submission for review.

OTLA's decision to accept the submission for review does not indicate any determination as to the validity or accuracy of the allegations contained in the submission. The objective of the review will be to gather information so that OTLA can better understand the allegations contained in the submission and to publicly report on the issues raised therein. As set out in the Procedural Guidelines, OTLA will complete the review and issue a public report to the Secretary of Labor within 180 days of acceptance, unless circumstances, as determined by OTLA, require an extension of time. The public report will include a summary of the review process, as well as any findings and recommendations.

Signed at Washington, DC, on July 12, 2016.

Carol Pier,

Deputy Undersecretary for International Affairs.

[FR Doc. 2016–16828 Filed 7–15–16; 8:45 am]

BILLING CODE 4510–28–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting: Board of Directors and Its Six Committees

AGENCY: Legal Services Corporation.

ACTION: Change notice.

SUMMARY: On July 12, 2016, the Legal Services Corporation (LSC) published a notice in the **Federal Register** (81 FR 45177) titled "Board of Directors and its Six Committees will meet on July 17–19, 2016, EDT". The Governance and Performance Review Committee scheduled to meet on July 18, 2016 at 4:00 p.m., EDT, has added another item to the agenda as line item #6; all other items remain consecutively the same. This document changes the notice by revising the Governance and

Performance Review Committee agenda by adding another item as line item #6.

Changes in the meeting: Governance and Performance Review Committee agenda revised to add the following.

6. Discussion of renewal of President's contract

DATES: This change is effective July 14, 2016.

FOR FURTHER INFORMATION CONTACT: Katherine Ward, Executive Assistant to the Vice President for Legal Affairs and General Counsel, Legal Services Corporation, 3333 K Street NW., Washington, DC 20007; (202) 295–1500; *kward@lsc.gov.*

Dated: July 14, 2016.

Katherine Ward,

Executive Assistant to the Vice President for Legal Affairs and General Counsel.

[FR Doc. 2016–17081 Filed 7–14–16; 4:15 pm]

BILLING CODE 7050–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Submission for OMB Review; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice.

SUMMARY: The National Credit Union Administration (NCUA) will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before August 17, 2016 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for NCUA, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) NCUA PRA Clearance Officer, 1775 Duke Street, Alexandria, VA 22314–3428 or email at *PRAComments@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission may be obtained by emailing *PRAComments@ncua.gov* or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

OMB Number: 3133–0187.

Type of Review: Reinstatement without change of a previously approved collection.

Title: Reverse Mortgage Products—Guidance for Managing Reputation Risks.

Abstract: The Reverse Mortgage Guidance sets forth standards intended to ensure that financial institutions effectively assess and manage the compliance and reputation risks associated with reverse mortgage products. The information collection will allow NCUA to evaluate the adequacy of a federally-insured credit union's internal policies and procedures as they relate to reverse mortgage products.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Annual Burden Hours: 1,344.

By Gerard Poliquin, Secretary of the Board, the National Credit Union Administration, on July 12, 2016.

Dated: July 12, 2016.

Dawn D. Wolfgang,

NCUA PRA Clearance Officer.

[FR Doc. 2016–16827 Filed 7–15–16; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act: Notice of Agency Meeting

TIME AND DATE: 10:00 a.m., Thursday, July 21, 2016.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street (All visitors must use Diagonal Road Entrance) Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. National Credit Union Share Insurance Fund Quarterly Report.
2. NCUA's 2017–2021 Strategic Plan.
3. Board Briefing, 2016 Mid-Session Budget.

RECESS: 11:00 a.m.

TIME AND DATE: 11:15 a.m., Thursday, July 21, 2016.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Merger Request Pursuant to part 708b of NCUA's Rules and Regulations. Closed pursuant to Exemption (8).
2. Supervisory Matter. Closed pursuant to Exemptions (8), (9)(i)(B) and (9)(ii).

FOR FURTHER INFORMATION CONTACT: Gerard Poliquin, Secretary of the Board, Telephone: 703–518–6304.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2016–17045 Filed 7–14–16; 4:15 pm]

BILLING CODE 7535–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Modification Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permit Modification Request.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of requests to modify permits issued to conduct activities regulated under the Antarctic Conservation Act of 1978. This is the required notice of a requested permit modification.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by August 17, 2016. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Division of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Nature McGinn, ACA Permit Officer, at the above address or *ACApermits@nsf.gov.*

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

Description of Permit Modification Requested: The Foundation issued a permit (ACA 2016–005) to Allyson Hindle on October 8, 2015. The issued permit allows the applicant to study the tissue specific dive response of Weddell seals, looking at nitric oxide regulation. The study's broad objective is to better understand the natural adaptations that allow Weddell seals to control their cardiovascular system and tolerate extreme hypoxia during dives. Up to 38 Weddell seals would be temporarily restrained for sample collection and morphological measurement. In addition, the applicant plans to salvage parts of dead animals encountered. Collected samples will be imported to the USA for lab analyses.

Now the applicant proposes a modification to her permit to collect samples from an additional 12 live Weddell seals in order to validate results over time and between seasons. The additional samples will be collected following the currently permitted protocols, handling procedures, and disposition of samples. The additional sampling is covered under NMFS/ MMPA permit #19439.

Location: Delbridge Islands, Turks Head, Turtle Rock, Hutton Cliffs, Erebus Glacier Tongue, and in and around McMurdo Sound.

Dates: August 1, 2016 to April 30, 2018.

Nadene G. Kennedy,

Polar Coordination Specialist, Division of Polar Programs.

[FR Doc. 2016–16869 Filed 7–15–16; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on the Medical Uses of Isotopes: Meeting Notice

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission will convene a teleconference meeting of the Advisory Committee on the Medical Uses of Isotopes (ACMUI) on August 10, 2016, to discuss the draft report of the ACMUI Germanium-68/Gallium-68 (Ge-68/Ga-68) Generators Subcommittee. The report will include the subcommittee's comments on the draft Ge-68/Ga-68 Generators licensing guidance. Meeting information, including a copy of the agenda and handouts, will be available at *http://www.nrc.gov/reading-rm/doc-collections/acmui/meetings/2016.html.* The agenda and handouts may also be obtained by contacting Ms. Sophie Holiday using the information below.

DATES: The teleconference meeting will be held on Wednesday, August 10, 2016, 1:30 p.m. to 3:30 p.m. Eastern Time.

Public Participation: Any member of the public who wishes to participate in the teleconference should contact Ms. Holiday using the contact information below.

Contact Information: Sophie Holiday, email: *sophie.holiday@nrc.gov,* telephone: (301) 415–7865.

Conduct of the Meeting

Dr. Pat Zanzonico, ACMUI Vice Chairman, will preside over the meeting. Dr. Zanzonico will conduct the meeting in a manner that will facilitate the orderly conduct of business. The following procedures apply to public participation in the meeting:

1. Persons who wish to provide a written statement should submit an electronic copy to Ms. Holiday at the contact information listed above. All submittals must be received by August 5, 2016, 3 business days prior to the meeting, and must pertain to the topic on the agenda for the meeting.
2. Questions and comments from members of the public will be permitted during the meetings, at the discretion of the Vice Chairman.
3. The draft transcript and meeting summary will be available on ACMUI's Web site *http://www.nrc.gov/reading-rm/doc-collections/acmui/meetings/2016.html* on or about September 22, 2016.

This meeting will be held in accordance with the Atomic Energy Act of 1954, as amended (primarily Section 161a); the Federal Advisory Committee Act (5 U.S.C. App.); and the Commission's regulations in title 10 of the *Code of Federal Regulations* part 7.

Dated at Rockville, Maryland, this 12th day of July 2016.

For the Nuclear Regulatory Commission.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 2016–16905 Filed 7–15–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–326; NRC–2010–0217]

Board of Regents of the University of California, Irvine Nuclear Reactor Facility

AGENCY: Nuclear Regulatory Commission.

ACTION: License renewal; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) issued a renewal of Facility Operating License No. R–116, held by the Board of Regents of the University of California (the licensee) for the continued operation of its University of California, Irvine Nuclear Reactor Facility (UCINRF) for an additional 20 years.

DATES: The renewed Facility Operating License No. R–116 is effective on July 7, 2016.

ADDRESSES: Please refer to Docket ID NRC–2010–0217 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2010–0217. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select "*ADAMS Public Documents*" and then select "*Begin Web-based ADAMS Search.*" For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* For the convenience of the reader, the ADAMS accession numbers are provided in a table in the "Availability of Documents" section of this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Michael F. Balazik, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2856; email: *Michael.Balazik@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Discussion

The NRC has issued renewed Facility Operating License No. R–116, held by the licensee, which authorizes continued operation of the UCINRF, located in Irvine, California. The UCINRF is a heterogeneous, in-ground pool type, natural convection, light-water cooled and shielded TRIGA (Training, Research, Isotope Production, General Atomics) Mark I reactor. The UCINRF is licensed to operate at a steady-state power level of 250 kilowatts thermal power and to pulse the reactor with a maximum reactivity insertion of $3.00. The renewed Facility Operating

License No. R–116 will expire 20 years from its date of issuance.

The renewed facility operating license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in Chapter I of Title 10 of the *Code of Federal Regulations,* and sets forth those findings in the renewed facility operating license. The NRC afforded an opportunity for hearing in the Notice of Opportunity for Hearing published in the **Federal Register** on June 28, 2010 (75 FR 36705). The NRC received no request for a hearing or petition for leave to intervene following the notice.

The NRC staff prepared a safety evaluation report for the renewal of Facility Operating License No. R–116 and, based on that evaluation, concluded that the licensee can continue to operate the facility without endangering the health and safety of the public. The NRC staff also prepared an Environmental Assessment and Finding of No Significant Impact for the renewal of the facility operating license, noticed in the **Federal Register** on February 13, 2012 (77 FR 7610), as supplemented on May 8, 2013 (78 FR 26812), and concluded that renewal of the facility operating license will not have a significant impact on the quality of the human environment.

II. Availability of Documents

The documents identified in the following table are available to interested persons as indicated.

Document	Adams accession No.
University of California, Irvine Nuclear Reactor Facility Formal Application for Renewal of Reactor Operating License R–116 (Docket 50–326), dated October 18, 1999.	ML083110112
Environmental Report Modeled on the Report for NC State and Revised Operator Requalification Plan, dated April 24, 2000	ML003708602
University of California, Irvine—Letter Forwarding Emergency Plan and Security Plan, dated June 2, 2000	ML003727359
University of California, Irvine—Reactor Response to NRC Request for Additional Information Dated December 3, 2009, License Renewal Request, dated January 27, 2010.	ML100290365
University of Irvine License Renewal E-mail from George Miller Regarding Revised Maximum Dose from a MHA, dated March 23, 2010.	ML100840084
University of California, Irvine, Response to the Request for Additional Information dated. December 3, 2009 in Regard to License Renewal Request, dated May 17, 2010.	ML101400027
University of California, Irvine—Response to Request for Additional Information dated May 25, 2010 Regarding License Renewal Request, dated July 14, 2010.	ML101970039
University of California Irvine Nuclear Reactor Facility, Financial Assurance, dated August 25, 2010	ML102520227
University of California, Irvine, Response Regarding Revision Based on Teleconference Regarding License Renewal, dated October 20, 2010.	ML102980015
University of California, Irvine, Response to Request for Additional Information on Revised Operator Requalification Program, dated October 29, 2010.	ML103070123
University of California, Irvine (UCI)—Response to NRC Request for Additional Information (RAI) dated May 26, 2010 and Transmittal Letter, dated June 7, 2011.	ML111950379
University of California, Irvine (UCI)—Thermal-Hydraulic Analysis for UCI TRIGA Reactor, dated July 7, 2011	ML111950380
University of California, Irvine (UCI)—Nuclear Analysis for UCI TRIGA Reactor, Report 911196, Rev. 0, dated June 7, 2011	ML111950452
Response to Re-license, Request for Additional Information 04/05/2011, dated June 24, 2011	ML11188A083
University of California—Irvine, Response to Request for Additional Information Dated April 5, 2011 (TAC ME1579), Additional Response Material—Extension Granted to August 1, 2011, dated August 1, 2011.	ML11255A073
University of California, Irvine—Response to Request for Additional Information, Revised Maximum Hypothetical Accident Analysis, ALARA Program Policy Statement and Proposed Technical Specifications, dated October 3, 2011.	ML120110012
University of California, Irvine—Licensee Response to NRC Request for Additional Information Re: License Renewal Maximum Hypothetical Accident, dated December 2, 2011.	ML113530010
University of California, Irvine, Docket 50–326 Re-license, dated December 2, 2011	ML11348A104
Transmittal of University of California, Irvine, Technical Specifications for the TRIGA Mark I Nuclear Reactor, dated January 12, 2012.	ML12031A170
Technical Specifications for the University of California Irvine TRIGA Mark I Nuclear Reactor, dated March 1, 2012	ML12087A215
University of California—Irvine, License Renewal E-mail Request for Minor Adjustments to Proposed Technical Specifications—March 2012, dated September 11, 2012.	ML12256A897
University of California, Irvine, Response to NRC's RAI Regarding the Reactor Emergency Plan, January 30, 2014, dated February 26, 2014.	ML14073A073
Letter, University of California—Irvine, Submittal of the Security Plan, dated March 5, 2014	ML14065A445
Letter, University of California—Irvine, Submittal of the Emergency Plan, dated March 7, 2014	ML14070A184
University of California, Irvine, Docket 50–326, License R–116, Security Plan Change under 10 CFR 50.54(p), dated July 11, 2014.	ML14274A110
Letter Providing Response Regarding Financials from Fiscal Request for Additional Information issued May 8, 2014, dated October 8, 2014.	ML14302A068
University of California, Irvine—Financial Assurance Statement of Intent, dated October 8, 2014	ML14302A078
University of California, Irvine—Response to Technical Request for Additional Information, dated December 22, 2015	ML16027A126
University of California, Irvine, Technical Specifications for the TRIGA Mark I Nuclear Reactor (issued April 22, 2016), dated April 22, 2016.	ML16125A487
University of California, Irvine—Request that License Limits for TRIGA Mark I Nuclear Reactor Facility be Established, dated April 29, 2016.	ML16125A149
University of California, Irvine—Request Changes to Technical Specification 5.4, Fuel Storage, dated May 13, 2016	ML16141A115

Dated at Rockville, Maryland, this 8th day of July 2016.

For the Nuclear Regulatory Commission.

Alexander Adams Jr.,

Chief, Research and Test Reactors Licensing Branch, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.

[FR Doc. 2016–16933 Filed 7–15–16; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2016–242]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* July 19, 2016.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's Web site (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2016–242; *Filing Title:* Notice of the United States Postal Service of Filing a Functionally Equivalent Global Plus 1D Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* July 11, 2016; *Filing Authority:* 39 CFR 3015.5 *et seq.; Public Representative:* Kenneth R. Moeller; *Comments Due:* July 19, 2016.

This notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2016–16822 Filed 7–15–16; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. MT2014–1; Order No. 3424]

Market Test of Experimental Product-Customized Delivery

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to extend the Customized Delivery market test for one additional year and expand the market test to a number of additional markets. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* July 27, 2016.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Notice of Filing and Designation of Substitute Public Representative
III. Ordering Paragraphs

I. Introduction

On July 8, 2016, the Postal Service filed a request, pursuant to 39 U.S.C. 3641(d)(2) and Order No. 2224, to extend the Customized Delivery market test for an additional year and to expand the market test to other markets during this additional year.[1] Customized Delivery is a package delivery service offering that provides customers with delivery of groceries and other prepackaged goods. Order No. 2224 at 1. The Postal Service formally implemented the Customized Delivery market test on November 1, 2014, in the San Francisco Metropolitan area. Request at 1. It expanded the market into the following metropolitan areas: Los Angeles, CA; San Diego, CA; New York City, NY; Sacramento, CA; Stamford, CT; and Las Vegas, NV.[2]

During the extension the Postal Service plans to continue the market test in the metropolitan areas in which it currently operates. Request at 1. It also "intends to expand the Customized Delivery market test to a number of additional markets over the next year, so that [it] can examine the market in a wider range of metropolitan areas." *Id.* The Postal Service asserts that it must continue the market test in a variety of metropolitan areas during the next year to determine the operational feasibility and desirability of adding Customized

---

[1] Request of the United States Postal Service for Extension of Customized Delivery Market Test, July 8, 2016 (Request). *See also* Order No. 2224, Order Authorizing Customized Delivery Market Test, October 23, 2014.

[2] Request at 1; *see* Notice of the United States Postal Service of Expansion of Customized Delivery Market Test, February 20, 2015; Notice of the United States Postal Service of Expansion of Customized Delivery Market Test, June 18, 2015; Notice of the United States Postal Service of Expansion of Customized Delivery Market Test, January 22, 2016.

Delivery as a permanent product. *Id.* at 1–2.

The Customized Delivery market test is currently scheduled to expire on October 31, 2016. *Id.* at 1. In the Request, the Postal Service requests to extend the market test for one additional year, until October 31, 2017, and to expand the market test into other metropolitan areas. *Id.* at 1–2. The Postal Service represents that all other aspects of the Customized Delivery market test remain unchanged and comply with 39 U.S.C. 3641 and Order No. 2224. *Id.* at 2.

II. Notice of Filing and Designation of Substitute Public Representative

The Commission reopens Docket No. MT2014–1 to consider matters raised by the Postal Service's Request. The Commission invites comments on whether the Request complies with applicable statutory and regulatory requirements, including 39 U.S.C. 3641, 39 CFR part 3035, and Order No. 2224. Comments are due no later than July 27, 2016. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

39 U.S.C. 505 requires the Commission to designate an officer of the Commission to represent the interests of the general public in all public proceedings (Public Representative). The Public Representative previously designated in Order No. 2197 is no longer able to serve.[3] In light of that circumstance, the Commission designates Lauren A. D'Agostino to serve as the substitute Public Representative to represent the interests of the general public in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission reopens Docket No. MT2014–1 to consider matters raised by the Postal Service's Request.

2. Pursuant to 39 U.S.C. 505, the Commission designates Lauren A. D'Agostino to serve as the substitute Public Representative to represent the interests of the general public in this docket.

3. Comments are due no later than July 27, 2016.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Stacy L. Ruble,

Secretary.

[FR Doc. 2016–16823 Filed 7–15–16; 8:45 am]

BILLING CODE 7710–FW–P

---

[3] *See* Notice and Order Concerning Market Test of Experimental Product—Customized Delivery, September 25, 2014, at 4 (Order No. 2197).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78304; File No. SR-BatsEDGX–2016–27]

Self-Regulatory Organizations; Bats EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees as They Apply to the Equity Options Platform

July 12, 2016.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 1, 2016, Bats EDGX Exchange, Inc. (the "Exchange" or "EDGX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members[5] and non-members of the Exchange pursuant to EDGX Rules 15.1(a) and (c).

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its fee schedule for its equity options platform ("EDGX Options") to: (1) Modify the criteria to qualify for the Customer Volume Tier 1 under footnote 1; and (2) delete the NBBO Setter/Joiner Tier under footnote 3.

Customer Volume Tier 1

In addition to the standard rebate provided to all Customer[6] orders, the Exchange offers six separate Customer Volume Tiers under footnote 1, each providing an enhanced rebate ranging from $0.10 to $0.21 [sic] per contract to Customer orders that yield fee codes PC[7] or NC[8] upon satisfying the respective tier's monthly volume criteria. Pursuant to Customer Volume Tier 1, the lowest volume tier, a Member currently receives a rebate of $0.10 per contract where the Member has an ADV[9] in Customer orders equal to or greater than 0.20% of average TCV.[10] In order to further incentive the entry of Customer orders, the Exchange proposes to ease the criteria necessary to qualify for the Customer Volume Tier 1 by reducing the tier's ADV requirement. Specifically, to receive an enhanced rebate of $0.10 per contract, Members must have an ADV in Customer orders equal to or greater than 0.15% of average TCV, rather than 0.20% of TCV as required today.

---

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] The term "Member" is defined as "any registered broker or dealer that has been admitted to membership in the Exchange." *See* Exchange Rule 1.5(n).

[6] "Customer" applies to any transaction identified by a Member for clearing in the Customer range at the OCC, excluding any transaction for a Broker Dealer or a "Professional" as defined in Exchange Rule 16.1. *See* the Exchange's fee schedule.

[7] Fee code PC is yielded to Customer orders in Penny Pilot Securities. *See* the Exchange's fee schedule.

[8] Fee code NC is yielded to Customer orders in Non-Penny Pilot Securities. *See* the Exchange's fee schedule.

[9] "ADV" means average daily volume calculated as the number of contracts added or removed, combined, per day. *See* the Exchange's fee schedule.

[10] "TCV" means total consolidated volume calculated as the volume reported by all exchanges to the consolidated transaction reporting plan for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption and on any day with a scheduled early market close. *See* the Exchange's fee schedule.

NBBO Setter/Joiner Tier

The NBBO Setter/Joiner Tier was adopted to incentivize Market Makers on EDGX Options to enter quotations at the National Best Bid and Offer (“NBBO”) by providing an additional rebate of $0.02 per contract to Market Maker[11] orders that added liquidity and established a new NBBO or joined the existing NBBO when EDGX Options is not already at the NBBO. The Exchange is proposing to eliminate the tier because the rebate has not achieved the desired effect, despite being designed to incentivize Members to add liquidity that sets or joins the Exchange to the NBBO. As such, the Exchange is proposing to eliminate the text in footnote three related to the NBBO Setter and Joiner Tier. In connection with this change the Exchange proposes to remove footnote 3 to fee codes NM[12] and PM.[13]

Implementation Date

The Exchange proposes to implement these amendments to its fee schedule on July 1, 2016.

2. Statutory Basis

The Exchange believes that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of section 6 of the Act.[14] Specifically, the Exchange believes that the proposed rule changes are consistent with section 6(b)(4) of the Act,[15] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls.

Customer Volume Tier 1

The Exchange believes that the proposed modifications to the Customer Volume Tier 1 is reasonable, fair and equitable, and non-discriminatory. Volume-based rebates such as those currently maintained on the Exchange have been widely adopted by options exchanges and are equitable because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to the value of an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns, and introduction of higher volumes of orders into the price and volume discovery processes. The proposed modification to ease the criteria required to qualify for current Customer Volume Tier 1 is intended to incentivize Members to send additional Customer orders to the Exchange in an effort to qualify for the enhanced rebate made available by the tier.

NBBO Setter and Joiner Tiers

The Exchange believes that the proposed elimination of the NBBO Setter and Joiner Tier represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities because, as described above, the additional rebates offered under these tiers are not affecting Members' behavior in the manner originally conceived by the Exchange. While the Exchange acknowledges the benefit of Members entering orders that set or join the NBBO, the Exchange has generally determined that it is providing additional rebates for liquidity that would be added on the Exchange regardless of whether the tiers existed. By paying these rebates, the Exchange is not only offering rebates for orders that would set or join the NBBO without being incentivized to do so, but also missing out on the opportunity to offer other rebates or reduced fees that could incentivize other behavior that would enhance market quality on the Exchange, which would benefit all Members. As such, the Exchange also believes that the proposed elimination of the NBBO Setter and Joiner Tier would be non-discriminatory in that it currently applies equally to all Members and, upon elimination, would no longer be available to any Members. Further, it will allow the Exchange to explore other ways in which it may enhance market quality for all Members.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed amendments to its fee schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Customer Volume Tier 1

The Exchange does not believe that the proposed change represents a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. Rather, the proposal is a competitive proposal that is seeking to further the growth of the Exchange. The Exchange has structured the proposed amendment to the tier to attract certain additional volume in Customer orders, however, the Exchange believes that its pricing for all capacities is competitive with that offered by other options exchanges. Additionally, Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed change will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets.

NBBO Setter and Joiner Tier

The Exchange does not believe that its proposal to eliminate the NBBO Setter and Joiner Tier would burden competition, but, rather, enhance the Exchange's ability to compete with other market centers. As described above, the Exchange believes that it is offering enhanced rebates for orders that would be submitted to the Exchange without the enhanced rebate, which prevents the Exchange from being able to offer other rebates or reduced fees that might be able to enhance market quality to the benefit of all Members. As such, eliminating the NBBO Setter and Joiner Tier will allow the Exchange other opportunities to enhance market quality on the Exchange and ultimately, better compete with other market centers.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

---

[11] “Market Maker” applies to any transaction identified by a Member for clearing in the Market Maker range at the OCC, where such Member is registered with the Exchange as a Market Maker as defined in Rule 16.1(a)(37). *See* the Exchange's fee schedule.

[12] Fee code NM is yielded to Market Maker orders in Non-Penny Pilot Securities. *See* the Exchange's fee schedule.

[13] Fee code PM is yielded to Market Maker orders in Non-Penny [sic] Pilot Securities. *See* the Exchange's fee schedule.

[14] 15 U.S.C. 78f.

[15] 15 U.S.C. 78f(b)(4).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act[16] and paragraph (f) of Rule 19b–4 thereunder.[17] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BatsEDGX–2016–27 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BatsEDGX–2016–27. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BatsEDGX–2016–27 and should be submitted on or before August 8, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–16848 Filed 7–15–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78292; File No. SR–CBOE–2016–054]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Schedule

July 12, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 1, 2016, Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

On March 21, 2016, the Exchange began offering Asian style settlement and Cliquet style settlement for certain FLEX Broad-Based Index Options ("Exotics").[3] In conjunction with the adoption of FLEX Broad-Based Index Options with Asian or Cliquet style settlement, the Exchange adopted an Exotic Surcharge of $0.25 to be assessed on all customer ("C" origin code) Exotic contracts executed on CBOE. The Exchange proposes to decrease the Exotic Surcharge of $0.25 to $0.03 for all customer XSP Exotic contracts executed on CBOE. Particularly, the Exchange notes that XSP options have 1/10 the value of S&P 500 Index ("SPX") options. As XSP has a smaller exercise and assignment value due to the reduced number of shares they deliver as compared to standard SPX option contracts, the Exchange is proposing a lower per contract Exotic Surcharge.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[4] Specifically, the Exchange believes the proposed rule change is consistent with the Section

---

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f).

[18] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In general, Asian style settlement provides for payout based on the average of prices of a broad-based index on pre-determined dates over a specified time period, and Cliquet style settlement provides for a payout that is the greater of $0 or the (positive) sum of "capped" monthly returns of a broad-based index on pre-determined dates over a specified period of time. These settlement types are also referred to as "Exotics" due to their untraditional nature.

[4] 15 U.S.C. 78f(b).

6(b)(5)[5] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[6] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

The Exchange believes that reducing the Exotic Surcharge of $0.25 per contract to $0.03 per contract for Exotic customer XSP options is reasonable because customers will pay lower fees for such transactions. The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to reduce the Exotic Surcharge for XSP options only because XSP options are 1⁄10 the size of standard options and as such the Exchange believes it's reasonable to assess a lower surcharge. Further, the Exchange notes that the proposed Exotic Surcharge of $0.03 per contract for Exotic XSP options, is only slightly more than 1⁄10 of the $0.25 amount assessed as the Exotic Surcharge for standard sized classes. The proposed change is also equitable and not unfairly discriminatory because it is designed to attract greater customer order flow in XSP Exotic options to the Exchange, which would bring greater liquidity to the market, thereby benefiting all market participants.

The Exchange also believes that it is equitable and not unfairly discriminatory to assess the Exotic Surcharge to customers and not other market participants because customers are not subject to additional costs for effecting transactions in FLEX Broad-Based Index options that are applicable to other market participants, such as license surcharges. Additionally, customers are not subject to fees for effecting transactions in general that are applicable to other market participants, such as connectivity fees and fees relating to Trading Permits, and are not subject to the same obligations as other market participants, including regulatory and compliance requirements and quoting obligations.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burdens on competition that are not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because while the Exotic Surcharge is assessed only to customer orders, lower fees for customers is commonplace within the options marketplace for the reasons discussed above. Further, to the extent that any change in intramarket competition may result from the proposed change, such change is justifiable and offset because the proposed change is designed to attract greater customer order flow in XSP Exotic options and because the Exchange does not wish to assess the same per contract surcharge on a class that is 1⁄10 the size of standard options. The Exchange does not believe that the proposed change will cause any unnecessary burden on intermarket competition because the proposed change only affects trading on CBOE. To the extent that the proposed changes make CBOE a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become CBOE market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and paragraph (f) of Rule 19b–4[8] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2016–054 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2016–054. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2016–054, and should be submitted on or before August 8, 2016.

---

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–16852 Filed 7–15–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78293; File No. SR–CBOE–2016–047]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving a Proposed Rule Change Relating to Senior Management Authority

July 12, 2016.

I. Introduction

On May 23, 2016, Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its Bylaws and Rules with respect to delegations of certain authorities to senior management. The proposed rule change was published for comment in the **Federal Register** on June 7, 2016.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposed Rule Change[4]

The Exchange proposes to update references to senior management contained in its Bylaws and Rules to more accurately reflect roles and responsibilities within its current senior management structure. The Exchange notes that historically the CBOE Chairman of the Board also held the title of Chief Executive Officer ("CEO"). Currently, however, the titles of Chairman of Board, CEO, and President are held by three different individuals. As such, the Exchange proposes to amend its rules relating to authorities delegated to senior management to more accurately reflect the current senior management structure.

A. References to Chairman of the Board

First, the Exchange proposes to amend Rule 2.15 (Divisions of Exchange), Rule 4.10 (Other Restrictions on Trading Permit Holders), Rule 6.17 (Authority to Take Action Under Emergency Conditions), Rule 10.2 (Contracts of Suspended Trading Permit Holders), and Rule 16.1 (Imposition of Suspension) to eliminate references to "Chairman of the Board" and replace those references with "Chief Executive Officer."[5] The Exchange notes that the CEO's responsibility is that of general charge and supervision of the business of the Corporation, whereas the Chairman of the Board's responsibility is that of the presiding officer at all meetings of the Board and stockholders, as well as of other powers and duties as are delegated by the Board.[6] The Exchange believes the responsibilities currently delegated to the Chairman of the Board under Rules 2.15, 4.10, 6.17, 10.2 and 16.1 pertain to the general charge and supervision of the Exchange's business and therefore fall within the scope of the CEO's stated responsibilities, instead of the Chairman of the Board's.[7]

B. Office of the Chairman

Second, the Exchange proposes to eliminate the term "Office of the Chairman" ("OOC") in Rule 4.10 (Other Restrictions on Trading Permit Holders) and Rule 18.31 (Awards) and replace these references with "Chief Executive Officer or President."[8] The Exchange notes that historically, the OOC was considered to be the management committee of the Exchange and consisted of the Chairman of the Board (who at the time was also the CEO), the Vice-Chairman (which role no longer exists) and the President.[9] As the Exchange's senior management structure has since changed, the Exchange proposes to eliminate the references to the OOC in its rules. In its place, the Exchange proposes that the powers and responsibilities delegated to the OOC as a whole will now be delegated to either the CEO or the President. The Exchange believes the authorities delegated in Rules 4.10 and 18.31 fall more squarely within the scope of the CEO's or President's roles and responsibilities.[10]

Third, the Exchange proposes to eliminate the reference to the OOC in Section 6.1 (Advisory Board) of the Exchange's Bylaws and replace it with a reference to "management."[11] Section 6.1 currently provides that the Board will establish an Advisory Board which shall advise the Board and the Office of the Chairman regarding matters of interest to Trading Permit Holders ("TPHs"). The Exchange notes that the Advisory Board's Charter provides that the Advisory Board shall advise the Board and "management" regarding matters of interest to TPHs.[12] In order to conform the language in Section 6.1 to the Advisory Board Charter, the Exchange proposes to replace the reference to the OOC with management.[13]

C. Designee of the President

Last, the Exchange proposes to amend Rules 4.14 (Liquidation of Positions) and 6.20 (Admission to and Conduct on the Trading Floor; Trading Permit Holder Education) to provide that in addition to the President, a designee of the President may act pursuant to the authorities delegated by those Rules.[14] The Exchange notes that allowing such authorities to also be delegated to a designee of the President provides additional flexibility and certainty that if the President were unavailable, an alternate Exchange official could carry out the designated responsibilities of the President if needed.[15]

III. Discussion and Commission Findings

The Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[16] Specifically, the Commission believes the proposed rule change is consistent with the Section 6(b)(5)[17] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

---

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 77962 (June 1, 2016), 81 FR 36641 (June 7, 2016) ("Notice").

[4] A more detailed description of the proposed rule change appears in the Notice. *See id.*

[5] *See* Notice, *supra* note 3, at 36644.

[6] *See id.*; *see also* Sections 3.6 and 5.2 of the CBOE Bylaws.

[7] *See* Notice, *supra* note 3, at 36644.

[8] *See id.*

[9] *See id.*

[10] *See id.*

[11] *See id.*

[12] *See id.*

[13] *See id.* Additionally, the title of the Bylaws will be changed to Seventh Amended and Restated Bylaws of CBOE. *See id.*

[14] *See id.*

[15] *See* Notice, *supra* note 3, at 36645.

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

In particular, the Commission believes the proposed rule change will remove impediments to, and perfect the mechanism of a free and open market and a national market system, and, in general, will protect investors and the public interest by updating the delegation of authority to senior management under certain of the Exchange's Rules, which should facilitate the Exchange's ability to operate and carry out its self-regulatory responsibilities. In particular, the proposed rule changes to amend Rules 2.15, 4.10, 6.17, 10.2, and 16.1 to replace the references to the Chairman of the Board with the CEO should update and clarify which Exchange official is vested with the authorities established in those rules. The Exchange represents that while historically the Chairman of the Board also held the title of CEO, currently, the two titles are held by different individuals.[18] The Exchange Bylaws confer different responsibilities on the Chairman of the Board and the CEO.[19] These proposed rule changes will ensure that the authorities delegated pursuant to Rules 2.15, 4.10, 6.17, 10.2, and 16.1 are consistent with the roles and responsibilities established in the Bylaws.

Similarly, the proposed rule changes to amend Rules 4.10 and 18.31 and Section 6.1 of the Bylaws to remove references to the OOC will reduce confusion by eliminating references to a term the Exchange believes is antiquated. The Exchange notes that historically the OOC consisted of the Chairman of the Board (who also was the CEO), the Vice-Chairman, and the President.[20] Currently, however, the Chairman of the Board no longer holds the title of CEO and as such does not bear responsibility for the CEO's functions.[21] In addition, the Exchange has eliminated the role of Vice-Chairman.[22] As such, the proposed rule changes to replace the references to the OOC in Rules 4.10 and 18.31 with references to the CEO or President will remove an outdated term, ensure that delegated authorities are consistent with the roles and responsibilities delineated in the Bylaws, and will clarify that the authorities in those rules are delegated solely to the CEO or President.

Likewise, the Exchange's proposal to eliminate the reference to the OOC and replace it with a reference to management in Section 6.1. of the Exchange's Bylaws will alleviate confusion regarding the responsibilities of the Advisory Board. The Exchange notes that the Advisory Board's Charter provides that the Advisory Board shall advise the Board and "management" regarding matters of interest to TPHs.[23] Replacing the term OOC with management will ensure that the Exchange's Bylaws conform to the Advisory Board Charter, thereby reducing uncertainty about the responsibilities of the Advisory Board.

Lastly, the proposed changes to Rules 4.14 and 6.20 will provide the Exchange with additional flexibility should the President be unavailable and thus unable to carry out the authorities delegated in those rules. The Commission believes that authorizing the President to designate an appropriately qualified alternate Exchange official to perform the responsibilities of the President will clarify the appropriate officials authorized to carry out certain duties should the President be unavailable. Such clarification should perfect the mechanism of a free and open market and protect investors and the public interest by eliminating potential uncertainty regarding the appropriate individual to carry out certain Exchange authorities in the absence of the President, which should enable the Exchange to continue operations with minimal disruption.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[24] that the proposed rule change (SR–CBOE–2016–047) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–16853 Filed 7–15–16; 8:45 am]

BILLING CODE 8011–01–P

---

[18] *See* Notice, *supra* note 3, at 36644.

[19] *See id.*

[20] *See id.*

[21] *See id.*

[22] *See id.*

[23] *See id.*

[24] 15 U.S.C. 78s(b)(2).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78290; File No. SR–NASDAQ–2016–071]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change To List and Trade Shares of the First Trust CEF Income Opportunity ETF and the First Trust Municipal CEF Income Opportunity ETF

July 12, 2016.

On May 10, 2016, The NASDAQ Stock Market LLC ("Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares of the First Trust CEF Income Opportunity ETF and the First Trust Municipal CEF Income Opportunity ETF under Nasdaq Rule 5735, which governs the listing and trading of Managed Fund Shares. On May 20, 2016, the Exchange filed Amendment No. 1 to the proposed rule change. The proposed rule change was published for comment in the **Federal Register** on May 31, 2016.[3] The Commission has received one comment letter on the proposed rule change.[4]

Section 19(b)(2) of the Act[5] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The Commission is extending this 45-day time period. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change.

Accordingly, the Commission, pursuant to section 19(b)(2) of the Act,[6] designates August 29, 2016 as the date by which the Commission shall either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–NASDAQ–2016–071).

---

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 77895 (May 24, 2016), 81 FR 34407.

[4] *See* letter from Stephanie Price, dated May 31, 2016. This comment letter is available at: *https://www.sec.gov/comments/sr-nasdaq-2016-071/nasdaq2016071-1.htm.*

[5] 15 U.S.C. 78s(b)(2).

[6] *Id.*

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–16851 Filed 7–15–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78305; File No. SR–BatsBZX–2016–36]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use of Bats BZX Exchange, Inc.

July 12, 2016.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 1, 2016, Bats BZX Exchange, Inc. (the "Exchange" or "BZX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members[5] and non-members of the Exchange pursuant to BZX Rules 15.1(a) and (c).

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its fee schedule for its equity options platform ("BZX Options") to: (i) Reduce the rate for fee code PA, which is appended to Professional[6] orders in Penny Pilot Securities;[7] (ii) add a new tier under footnote 9, Professional Penny Pilot Add Volume Tiers; (iii) to modify the criteria for the Customer Penny Pilot Add Tier 5 under footnote 1; and (iv) to modify the criteria for the Non-Customer Penny Pilot Take Volume Tier 1 under footnote 3. Additionally, the Exchange proposes to rename and ease the qualifications for the: (i) Firm, Broker Dealer, and Joint Back Office Penny Pilot Add Volume Step-Up Tier under footnote 2; (ii) Firm, Broker Dealer, and Joint Back Office Non-Penny Pilot Add Volume Step-Up Tier under footnote 8; and (iii) the Away Market Penny Pilot Add Volume Step-Up Tier under footnote 10. The Exchange also proposes to ease the criteria for the NBBO Setter Tier 3 under footnote 4.

Fee Code PA

The Exchange proposes to reduce the rebate for fee code PA, under which a Member is currently receiving a rebate of $0.40 per contract for its Professional orders in Penny Pilot Securities. The Exchange proposes to reduce the rebate for fee code PA from $0.40 per contract to $0.25 per contract. The Exchange also proposes to update the Standard Rate table to reflect the new rebate.

New Professional Penny Pilot Add Volume Tier

The Exchange currently offers one tier under footnote 9, Professional Penny Pilot Add Volume Tier. Under that tier (to be renamed Tier 2), a Member receives a rebate of $0.43 per contract for its orders that yield fee code PA where it has a combined ADAV[8] in Customer[9] and Professional orders equal to or greater than 0.20% of average TCV.[10] The Exchange now proposes to add a new tier under footnote 9 to be named Tier 1, under which a Member would receive a rebate of $0.40 per contract for its orders that yield fee code PA where it has an ADV[11] equal to or greater than 0.25% of average TCV. The current tier under footnote 9 would be renamed Tier 2.

Customer Add Volume Tier 5

Customer orders that add liquidity on the Exchange in Penny Pilot Securities yield fee code PY and receive a standard rebate of $0.25 per contract. In addition, footnote 1 of the fee schedule currently sets forth eight different types of Customer Penny Pilot Add Tiers, each providing an enhanced rebate ranging from $0.40 to $0.53 per contract to a Member's Customer orders that yield fee code PY upon satisfying monthly volume criteria required by the respective tier.

The Exchange proposes to amend Customer Add Volume Tier 5 to amend the qualification criteria for the tier. In order to qualify for Customer Add Volume Tier 5 and receive a rebate of $0.53 per contract, the Exchange currently requires a Member to: (1) Have an ADAV in Customer orders equal to or greater than 0.80% of average TCV; and (2) have an ADAV in Market Maker[12] orders equal to or greater than

---

[7] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] The term "Member" is defined as "any registered broker or dealer that has been admitted to membership in the Exchange." *See* Exchange Rule 1.5(n).

[6] The term "Professional" applies to any transaction identified by a Member as such pursuant to Exchange Rule 16.1.

[7] The term "Penny Pilot Security" applies to those issues that are quoted pursuant to Exchange Rule 21.5, Interpretation and Policy .01.

[8] As set forth in the Exchange's fee schedule, "ADAV" means average daily volume calculated as the number of contracts added per day.

[9] As set forth in the Exchange's fee schedule, the term "Customer" applies to any transaction identified by a Member for clearing in the Customer range at the Options Clearing Corporation ("OCC"), excluding any transaction for a Broker Dealer or a "Professional" as defined in Exchange Rule 16.1.

[10] As set forth in the Exchange's fee schedule, "TCV" means total consolidated volume calculated as the volume reported by all exchanges to the consolidated transaction reporting plan for the month for which the fees apply.

[11] As set forth in the Exchange's fee schedule, "ADV" means average daily volume calculated as the number of contracts added or removed, combined, per day.

[12] As set forth in the Exchange's fee schedule, the term "Market Maker" applies to any transaction identified by a Member for clearing in the Market Maker range at the OCC, where such Member is

Continued

0.30% of average TCV. The Exchange proposes to reduce the first prong of the qualifying criteria to require a Member to have an ADAV in Customer orders equal to or greater than 0.60% of average TCV. In addition, the Exchange proposes to add a third prong to the qualifying criteria to require that the Member have an ADV equal to or greater than 0.30% of average TCV on the Exchange's equity platform ("BZX Equities"). The Exchange notes that no changes are required to the Standard Rates table of the fee schedule in connection with the changes to footnote 1.

Non-Customer Add Volume Tier 1

Non-Customer[13] orders that remove liquidity from the Exchange in Penny Pilot Securities yield fee code PP and are charged a standard fee of $0.50 per contract. In addition, footnote 3 of the fee schedule currently sets forth four [sic] different types of Non-Customer Penny Pilot Take Volume Tiers, each providing a reduced fee ranging from $0.44 to $0.47 per contract to a Member's Non-Customer orders that yield fee code PP upon satisfying monthly volume criteria required by the respective tier.

The Exchange proposes to amend the Non-Customer Take Volume Tier 1 to amend the qualification criteria for the tier. In order to qualify for current Non-Customer Take Volume Tier 1, the Exchange currently requires a Member to: (1) Have an ADAV in Customer orders equal to or greater than 0.80% of average TCV; and (2) have an ADAV in Market Maker orders equal to or greater than 0.30% of average TCV. The Exchange proposes to reduce the first prong of the qualifying criteria to require a Member have an ADAV in Customer orders equal to or greater than 0.60% of average TCV. In addition, the Exchange proposes to add a third prong to the qualifying criteria to require that the Member have an ADV equal to or greater than 0.30% of average TCV on BZX Equities. The Exchange notes that no changes are required to the Standard Rates table of the fee schedule in connection with the changes to footnote 3.

Step-Up Tier Amendments

The Exchange proposes to rename and ease the qualifications for the: (i) Firm, Broker Dealer, and Joint Back Office Penny Pilot Add Volume Step-Up Tier under footnote 2; (ii) Firm, Broker Dealer, and Joint Back Office Non-Penny Pilot Add Volume Step-Up Tier under footnote 8; and (iii) the Away Market Penny Pilot Add Volume Step-Up Tier under footnote 10. The Exchange also proposes to ease the criteria for the NBBO Setter Tier 3 under footnote 4. Each of the above tiers include the same criteria under which a Member must have an: (i) Options Step-Up Add TCV[14] in Non-Customer orders from March 2015 baseline equal to or greater than 0.15%; and (ii) ADAV in Away Market Maker/Firm/Broker-Dealer/Joint Back Office orders equal to or greater than 0.30% of average TCV. Upon satisfying the tier's criteria, the Member would receive an enhanced rebate of $0.43 per contract, $0.67 per contract, $0.43 per contract, and $0.04 per contract under the Firm, Broker Dealer, and Joint Back Office Penny Pilot Add Volume Step-Up Tier, Firm, Broker Dealer, and Joint Back Office Non-Penny Pilot Add Volume Step-Up Tier, the Away Market Penny Pilot Add Volume Step-Up Tier, and the NBBO Setter Tier 3, respectively.

The Exchange now proposes to ease the first prong of each of the above tier's criteria by replacing the requirement that the Member have an Options Step-Up Add TCV in Non-Customer orders from March 2015 baseline equal to or greater than 0.15% with a new requirement that the Member have an ADV equal to or greater than 0.40% of average TCV. The Exchange does not propose to amend the second prong of each of the above tiers as Members would continue to be required to have an ADAV in Away Market Maker/Firm/Broker-Dealer/Joint Back Office orders equal to or greater than 0.30% of average TCV.

In light of removing the monthly baseline step-up requirement, the Exchange proposes to rename the Firm, Broker Dealer, and Joint Back Office Penny Pilot Add Volume Step-Up Tier, the Firm, Broker Dealer, and Joint Back Office Non-Penny Pilot Add Volume Step-Up Tier, and the Away Market Penny Pilot Add Volume Step-Up Tier as follows:

- The Firm, Broker Dealer, and Joint Back Office Penny Pilot Add Volume Step-Up Tier would be renamed as the "the Firm, Broker Dealer, and Joint Back Office Penny Pilot Add Volume Tier 2";
- the Firm, Broker Dealer, and Joint Back Office Non-Penny Pilot Add Volume Step-Up Tier would be renamed as the "the Firm, Broker Dealer, and Joint Back Office Non-Penny Pilot Add Volume Tier 3"; and
- the Away Market Penny Pilot Add Volume Step-Up Tier would be renamed as the "the Away Market Penny Pilot Add Volume Tier 3".

The Exchange does not propose to amend the name of the NBBO Setter Tier 3.

Implementation Date

The Exchange proposes to implement these amendments to its fee schedule July 1, 2016.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of section 6 of the Act,[15] in general, and furthers the objectives of section 6(b)(4),[16] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange also notes that it operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The proposed rule change reflects a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange. The Exchange believes that the proposed tier is equitable and non-discriminatory in that it would apply uniformly to all Members. The Exchange believes the rates remain competitive with those charged by other venues and, therefore, are reasonable and equitably allocated to Members.

The Exchange believes that its proposal to change the standard fee charged for Professional orders under fee code PA is reasonable, fair and equitable and non-discriminatory, because the change will apply equally to all participants, and because, while the change marks a decrease in the rebate for Professional orders in Penny Pilot Securities, such proposed rebate remains consistent with pricing previously offered by the Exchange as well as competitors of the Exchange and does not represent a significant departure from the Exchange's general pricing structure and will allow the Exchange to earn additional revenue that can be used to offset the addition of new pricing incentives, such as the new Professional Penny Pilot Add Volume Tier introduced as part of this proposal.

The Exchange believes that the proposed modifications to the tiered

---

registered with the Exchange as a Market Maker as defined in Rule 16.1(a)(37).

[13] As set forth in the Exchange's fee schedule, the term "Non-Customer" applies to any transaction that is not a Customer order.

[14] As set forth in the Exchange's fee schedule, "Options Step-Up TCV" means "ADAV as a percentage of TCV in the relevant baseline month subtracted from current ADAV as a percentage of TCV."

[15] 15 U.S.C. 78f.

[16] 15 U.S.C. 78f(b)(4).

pricing structure are reasonable, fair and equitable, and non-discriminatory. The Exchange operates in a highly competitive market in which market participants may readily send order flow to many competing venues if they deem fees at the Exchange to be excessive. The proposed fee structure remains intended to attract order flow to the Exchange by offering market participants a competitive pricing structure. The Exchange believes it is reasonable to offer and incrementally modify incentives intended to help to contribute to the growth of the Exchange.

Volume-based rebates such as that proposed herein have been widely adopted by exchanges, including the Exchange, and are equitable because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to: (i) The value to an exchange's market quality; (ii) associated higher levels of market activity, such as higher levels of liquidity provisions and/or growth patterns; and (iii) introduction of higher volumes of orders into the price and volume discovery processes.

The proposed addition of an additional Professional Penny Pilot Add Volume Tier is broadly intended to incentivize participants to increase their participation on the Exchange, which will increase the liquidity and market quality on the Exchange. Thus, the Exchange believes that the proposed tier is reasonable, fair and equitable, and non-discriminatory, for the reasons set forth above with respect to volume-based pricing generally and because such changes will incentivize participants to further contribute to market quality. The Exchange also believes the rebate of $0.40 per contract is reasonable as compared to the existing tier under footnote 9. Currently, to receive a rebate of $0.43 per contract for orders that yield fee code PA, the Member must have a combined ADAV in Customer and Professional orders equal to or greater than 0.20% of average TCV. Under the proposed tier, the Member would receive a rebate of $0.40 per contract for its orders that yield fee code PA where it has an ADV equal to or greater than 0.25% of average TCV. The Exchange, therefore, believes that the lower rebate is equitable and reasonable as it correlates to the proposed tier's pricing structure and the criteria necessary to achieve the existing tier under footnote 9.

The proposed modifications to the criteria required to qualify for current Customer Add Volume Tier 5 and Non-Customer Penny Pilot Take Volume Tier 1 are intended to incentivize additional Members to send Customer orders and/or Market Maker orders to the Exchange in an effort to qualify for the enhanced rebate or lower fee made available by the tiers. The Exchange believes that the proposal to require that the Member have an ADV equal to or greater than 0.30% of average TCV on BZX Equities under both tiers is a reasonable, fair and equitable, and not unfairly discriminatory allocation of fees and rebates because it will provide Members with an additional incentive to reach certain thresholds on both BZX Options and BZX Equities. The increased liquidity from this proposal also benefits all investors by deepening the BZX Options and BZX Equities liquidity pools, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection. Such pricing programs thereby reward a Member's growth pattern on the Exchange and such increased volume increases potential revenue to the Exchange, and will allow the Exchange to continue to provide and potentially expand the incentive programs operated by the Exchange. To the extent a Member participates on BZX Options and not BZX Equities, the Exchange believes that the proposal is still reasonable, equitably allocated and non-discriminatory with respect to such Member based on the overall benefit to the Exchange resulting from the success of BZX Options. As noted above, such success allows the Exchange to continue to provide and potentially expand its existing incentive programs to the benefit of all participants on the Exchange, whether they participate on BZX Options or not. The proposed pricing program is also fair and equitable in that membership in BZX Options is available to all market participants which would provide them with access to the benefits on BZX Options provided by the proposed changes, as described above, even where a member of BZX Options is not necessarily eligible for the proposed increased rebates on the Exchange. Further, the proposed changes will result in Members receiving either the same or an increased rebate than they would currently receive.

The proposed amendments to the Firm, Broker Dealer, and Joint Back Office Penny Pilot Add Volume Step-Up Tier, Firm, Broker Dealer, and Joint Back Office Non-Penny Pilot Add Volume Step-Up Tier, Away Market Penny Pilot Add Volume Step-Up Tier and, the NBBO Setter Tier 3 are also are intended to incentivize additional Members to send orders to the Exchange in an effort to qualify for the enhanced rebate made available by the tiers. The Exchange notes that requiring improvement over a March 2015 baseline has become outdated and has prevented Members from seeking to achieve each tier's criteria. Therefore, the Exchange believes it is equitable and reasonable to replace the current March 2015 baseline with a requirement that Members have an ADV equal to or greater than 0.40% of average TCV. The Exchange believes the proposed change to each tier's criteria is consistent with the Act. The Exchange also believes renaming the Firm, Broker Dealer, and Joint Back Office Penny Pilot Add Volume Step-Up Tier, the Firm, Broker Dealer, and Joint Back Office Non-Penny Pilot Add Volume Step-Up Tier, and the Away Market Penny Pilot Add Volume Step-Up Tier is also reasonable because each tier would no longer require a step-up in volume based on a March 2015 baseline.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed amendment to its fee schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed change represents a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. Additionally, Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed change will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets. The Exchange does not believe that the proposed change to the Exchange's tiered pricing structure burdens competition, but instead, enhances competition as it is intended to increase the competitiveness of the Exchange. The Exchange also believes the proposal enhances competition by seeking to draw additional volume to both BZX Equities and BZX Options. Therefore, the Exchange believes that the amendment to the tiers' thresholds contributes to, rather than burdens competition, as such change is intended to incentivize participants to increase their participation on the Exchange.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act[17] and paragraph (f) of Rule 19b–4 thereunder.[18] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BatsBZX–2016–36 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BatsBZX–2016–36. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BatsBZX–2016–36 and should be submitted on or before August 8, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–16849 Filed 7–15–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78295; File No. SR–ISE–2016–16]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the SPY Pilot Program

July 12, 2016.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 7, 2016, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The ISE proposes to amend its rules to extend the pilot program that eliminated position and exercise limits for physically-settled options on the SPDR S&P ETF Trust ("SPY") ("SPY Pilot Program"). The text of the proposed rule change is available on the Exchange's Web site (*http://www.ise.com*), at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Supplementary Material .01 to Rule 412 and Supplementary Material .01 to Rule 414 to extend the duration of the SPY Pilot Program through July 12, 2017. This filing does not propose any substantive changes to the SPY Pilot Program. In proposing to extend the SPY Pilot Program, the Exchange reaffirms its consideration of several factors that supported the original proposal of the SPY Pilot Program, including (1) the liquidity of the option and the underlying security, (2) the market capitalization of the underlying security and the related index, (3) the reporting of large positions and requirements surrounding margin, and (4) financial requirements imposed by ISE and the Commission.

With this proposed extension to the SPY Pilot Program, the Exchange has submitted a report to the Commission reflecting the trading of standardized SPY options without position limits from January through May 2016. The report was prepared in the manner specified in the filing extending the SPY Pilot Program to the current pilot end date of July 12, 2016. The Exchange notes that it is unaware of any problems created by the SPY Pilot Program and does not foresee any as a result of the proposed extension. The proposed extension will allow the Exchange and the Commission to further evaluate the

---

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f).

[19] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

SPY Pilot Program and the effect it has on the market.

The Exchange represents that, should the Exchange propose to extend the pilot program, adopt on a permanent basis the pilot program or terminate the pilot program, it will submit a new pilot report at least thirty (30) days before the end of the extended SPY Pilot Program, which will cover the extended pilot period. The Pilot Report will detail the size and different types of strategies employed with respect to positions established as a result of the elimination of position limits in SPY. In addition, the Pilot Report will note whether any problems resulted due to the no limit approach and any other information that may be useful in evaluating the effectiveness of the SPY Pilot Program. The Pilot Report will compare the impact of the SPY Pilot Program, if any, on the volumes of SPY options and the volatility in the price of the underlying SPY shares, particularly at expiration. In preparing the report the Exchange will utilize various data elements such as volume and open interest. In addition the Exchange will make available to Commission staff data elements relating to the effectiveness of the SPY Pilot Program.

Conditional on the findings in the Pilot Report, the Exchange will file with the Commission a proposal to extend the pilot program, adopt the pilot program on a permanent basis or terminate the pilot. If the SPY Pilot Program is not extended or adopted on a permanent basis by the expiration of the extended pilot, the position limits for SPY would revert to limits that were in effect prior to the commencement of the SPY Pilot Program.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of section 6(b) of the Act.[3] In particular, the proposal is consistent with section 6(b)(5) of the Act,[4] because it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that extending the SPY Pilot Program promotes just and equitable principles of trade by permitting market participants, including market makers, institutional investors and retail investors, to establish greater positions when pursuing their investment goals and needs. The Exchange also believes that economically equivalent products should be treated in an equivalent manner so as to avoid regulatory arbitrage, especially with respect to position limits. Treating SPY and SPX options differently by virtue of imposing different position limits is inconsistent with the notion of promoting just and equitable principles of trade and removing impediments to perfect the mechanisms of a free and open market. At the same time, the Exchange believes that the elimination of position limits for SPY options would not increase market volatility or facilitate the ability to manipulate the market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposal is consistent with section 6(b)(8) of the Act[5] in that it does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any aspect of competition, whether between the Exchange and its competitors, or among market participants. Instead the proposed rule change is designed to allow the SPY Pilot Program to continue as all other self-regulatory organizations currently participating in the SPY Pilot Program are expected to extend it for an additional year.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[6]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[7] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[8] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay. The Exchange believes that waiver of the operative delay is consistent with the protection of investors and the public interest because it will allow the SPY Pilot Program to continue uninterrupted. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[9]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2016–16 on the subject line.

---

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

[5] 15 U.S.C. 78f(b)(8).

[6] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[7] 17 CFR 240.19b–4(f)(6).

[8] 17 CFR 240.19b–4(f)(6)(iii).

[9] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2016–16. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2016–16, and should be submitted on or before August 8, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–16855 Filed 7–15–16; 8:45 am]

BILLING CODE 8011–01–P

---

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78300; File No. 4–701]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing of Proposed Minor Rule Violation Plan

July 12, 2016.

Pursuant to Section 19(d)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19d–1(c)(2) thereunder,[2] notice is hereby given that on July 11, 2016, Investors' Exchange LLC ("IEX" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed minor rule violation plan ("MRVP") with sanctions not exceeding $2,500 which would not be subject to the provisions of Rule 19d–1(c)(1) of the Act [3] requiring that a self-regulatory organization ("SRO") promptly file notice with the Commission of any final disciplinary action taken with respect to any person or organization.[4] In accordance with Rule 19d–1(c)(2) under the Act,[5] the Exchange proposed to designate certain specified rule violations as minor rule violations, and requested that it be relieved of the prompt reporting requirements regarding such violations, provided it gives notice of such violations to the Commission on a quarterly basis.

The Exchange proposes to include in its MRVP the procedures included in Exchange Rule 9.216(b) ("Procedure for Violation Under Plan Pursuant to Exchange Act Rule 19d–1(c)(2)") and violations to be included in Exchange Rule 9.218 ("Violations Appropriate for Disposition Under Plan Pursuant to Exchange Act Rule 19d–1(c)(2)").[6] According to the Exchange's MRVP, under Rule 9.216(b), the Exchange may impose a fine (not to exceed $2,500) and/or a censure on any Member or associated person with respect to any rule listed in IEX Rule 9.218. If the Financial Industry Regulatory Authority ("FINRA") Department of Enforcement or the Department of Market Regulation, on behalf of the Exchange, has reason to believe a violation has occurred and if the Member or associated person does not dispute the violation, the Department of Enforcement or the Department of Market Regulation may prepare and request that the Member or associated person execute a minor rule violation plan letter accepting a finding of violation, consenting to the imposition of sanctions, and agreeing to waive such Member's or associated person's right to a hearing before a Hearing Panel or, if applicable, an Extended Hearing Panel, and any right of appeal to the IEX Appeals Committee, the Board, the SEC, and the courts, or to otherwise challenge the validity of the letter, if the letter is accepted. The letter shall describe the act or practice engaged in or omitted, the rule, regulation, or statutory provision violated, and the sanction or sanctions to be imposed. Unless the letter states otherwise, the effective date of any sanction(s) imposed will be a date to be determined by IEX Regulation staff. In the event the letter is not accepted by the Member or associated person, or is rejected by the Office of Disciplinary Affairs, the matter can proceed in accordance with the Exchange's disciplinary rules already approved by the Commission, which include hearing rights for formal disciplinary proceedings.[7]

The Exchange proposes that, as set forth in Exchange Rule 9.218, violations of the following rules would be appropriate for disposition under the MRVP: Rule 2.160(p)—Continuing Education Requirements; Rule 4.511 (General Requirements related to books and records requirements); Rule 4.540 (Furnishing of records); Rule 5.110 (Supervision); Rule 8.220 (Automated submission of trading data requested); Rule 11.151(a)(1) (Market Maker two-sided quotation requirement); Rule 11.290 (Short sales); Rule 11.310 (Locking or crossing quotations in NMS stocks); and Rule 11.420 (Order audit trail system requirements).

Upon the Commission's declaration of effectiveness of the MRVP, the Exchange will provide to the Commission a quarterly report for any actions taken on minor rule violations under the MRVP. The quarterly report will include: The Exchange's internal file number for the case, the name of the individual and/or organization, the nature of the violation, the specific rule provision violated, the sanction imposed, the number of times the rule violation occurred, and the date of the disposition.

---

[1] 15 U.S.C. 78s(d)(1).

[2] 17 CFR 240.19d–1(c)(2).

[3] 17 CFR 240.19d–1(c)(1).

[4] The Commission adopted amendments to paragraph (c) of Rule 19d–1 to allow SROs to submit for Commission approval plans for the abbreviated reporting of minor disciplinary infractions. *See* Securities Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23828 (June 8, 1984). Any disciplinary action taken by an SRO against any person for violation of a rule of the SRO which has been designated as a minor rule violation pursuant to such a plan filed with and declared effective by the Commission is not considered "final" for purposes of Section 19(d)(1) of the Act if the sanction imposed consists of a fine not exceeding $2,500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his administrative remedies.

[5] 17 CFR 240.19d–1(c)(2).

[6] The Exchange received its grant of registration on June 17, 2016, which included approving the rules that govern the Exchange. *See* Securities Exchange Act Release No. 78101 (June 17, 2016), 81 FR 41141 (June 23, 2016) (File No. 10–222). The Exchange anticipates, upon effectiveness of its MRVP, to file a rule proposal pursuant to Section 19(b)(1) of the Act, and Rule 19b–4 thereunder, to amend Rule 9.218 to specify the violations to be subject to the MRVP. Exhibit A includes the entirety of Rule 9.216(b) and anticipated changes to Rule 9.218.

[7] *See,* Chapter 9 generally.

Additionally, the Exchange proposes that, going forward, to the extent that there are any changes to the rules applicable to the Exchange's MRVP, the Exchange hereby requests that the Commission deem such changes to be modifications to the Exchange's MRVP.

I. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the Exchange's proposed MRVP, including whether the proposed MRVP is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number 4–701 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number 4–701. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed MRVP that are filed with the Commission, and all written communications relating to the proposed MRVP between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the proposed MRVP also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number 4–701, and should be submitted on or before August 2, 2016.

II. Date of Effectiveness of the Proposed Minor Rule Violation Plan and Timing for Commission Action

Pursuant to Section 19(d)(1) of the Act and Rule 19d–1(c)(2) thereunder,[8] after August 2, 2016, the Commission may, by order, declare the Exchange proposed MRVP effective if the plan is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act. The Commission in its order may restrict the categories of violations to be designated as minor rule violations and may impose any other terms or conditions to the proposed MRVP, File No. 4–701, and to the period of its effectiveness, which the Commission deems necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–16866 Filed 7–15–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78301; File No. SR–Phlx–2016–75]

Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend Pilot Program Through January 18, 2017

July 12, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 12, 2016, NASDAQ PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Exchange Rule 1080(n), Price Improvement XL ("PIXL$^{\text{SM}}$"), to extend, through January 18, 2017, a pilot program (the "pilot") concerning (i) the early conclusion of the PIXL Auction (as described below), and (ii) permitting orders of fewer than 50 contracts into the PIXL Auction. The current pilot is scheduled to expire July 18, 2016.[3]

The text of the proposed rule change is set forth below. Proposed new text is *italicized.* Deleted text is [bracketed].

* * * * *

NASDAQ PHLX LLC Rules

Options Rules

Rule 1080. Phlx XL and Phlx XL II

(a)–(m) No change.

(n) Price Improvement XL ("PIXL")

A member may electronically submit for execution an order it represents as agent on behalf of a public customer, broker-dealer, or any other entity ("PIXL Order") against principal interest or against any other order (except as provided in sub-paragraph (n)(i)(F) below) it represents as agent (an "Initiating Order") provided it submits the PIXL Order for electronic execution into the PIXL Auction ("Auction") pursuant to this Rule. The contract size specified in Rule 1080(n) as applicable to PIXL Orders shall apply to Mini Options.

(i) Auction Eligibility Requirements. All options traded on the Exchange are eligible for PIXL. A member (the "Initiating Member") may initiate an Auction provided all of the following are met:

(A) No change.

(B) No change.

(C) If the PIXL Order is a Complex Order and of a conforming ratio, as defined in Commentary .08(a)(i) and (a)(ix) to Rule 1080, the Initiating Member must stop the entire PIXL order at a price that is better than the best net price (debit or credit) (i) available on the Complex Order book regardless of the Complex Order book size; and (ii) achievable from the best Phlx bids and offers for the individual options (an "improved net price"), provided in either case that such price is equal to or better than the PIXL Order's limit price. Complex Orders consisting of a ratio other than a conforming ratio will not be accepted. This sub-paragraph (C) shall apply to all Complex Orders submitted into PIXL. This sub-paragraph (C), where applied to Complex Orders where the smallest leg is less than 50 contracts in size, shall be effective for a pilot period scheduled to expire [July 18, 2016]*January 18, 2017.*

---

[8] 15 U.S.C. 78s(d)(1); 17 CFR 240.19d–1(c)(2).

[9] 17 CFR 200.30–3(a)(44).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The extension of the pilot relates to several subparagraphs of Rule 1080(n) in respect of PIXL and Complex Order PIXL, as discussed below.

(D)–(G) No change.

(ii) Auction Process. Only one Auction may be conducted at a time in any given series or strategy. Once commenced, an Auction may not be cancelled and shall proceed as follows:

(A) No change.

(B) Conclusion of Auction. The PIXL Auction shall conclude at the earlier to occur of (1) through (4) below, with the PIXL Order executing pursuant to paragraph (C)(1) through (3) below.

(1)–(4) No change.

(5) Sub-paragraphs (B)(2), (B)(3) and (B)(4) above shall be effective for a pilot period scheduled to expire [July 18, 2016]*January 18, 2017.*

(C) No change.

(D) An unrelated market or marketable limit order (against the PBBO) on the opposite side of the market from the PIXL Order received during the Auction will not cause the Auction to end early and will execute against interest outside of the Auction. In the case of a Complex PIXL Auction, an unrelated market or marketable limit Complex Order on the opposite side of the market from the Complex PIXL Order as well as orders for the individual components of the Complex Order received during the Auction will not cause the Auction to end early and will execute against interest outside of the Auction. If contracts remain from such unrelated order at the time the Auction ends, they will be considered for participation in the order allocation process described in sub-paragraph (E) below. This sub-paragraph shall be effective for a pilot period scheduled to expire on [July 18, 2016]*January 18, 2017.*

(E)–(J) No change.

(iii)–(vi) No change.

(vii) Initially, and for at least a Pilot Period expiring on [July 18, 2016] *January 18, 2017,* there will be no minimum size requirement for orders to be eligible for the Auction. During this Pilot Period, the Exchange will submit certain data, periodically as required by the Commission, to provide supporting evidence that, among other things, there is meaningful competition for all size orders and that there is an active and liquid market functioning on the Exchange outside of the Auction mechanism. Any raw data which is submitted to the Commission will be provided on a confidential basis.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to extend the pilot through January 18, 2017.

Background

The Exchange adopted PIXL in October 2010 as a price-improvement mechanism on the Exchange.[4] PIXL is a component of the Exchange's fully automated options trading system, PHLX XL® that allows an Exchange member (an "Initiating Member") to electronically submit for execution an order it represents as agent on behalf of a public customer, broker dealer, or any other entity ("PIXL Order") against principal interest or against any other order it represents as agent (an "Initiating Order") provided it submits the PIXL Order for electronic execution into the PIXL Auction ("Auction") pursuant to the Rule.

An Initiating Member may initiate a PIXL Auction by submitting a PIXL Order, which is not a Complex Order, in one of three ways:

- First, the Initiating Member could submit a PIXL Order specifying a single price at which it seeks to execute the PIXL Order (a "stop price").
- Second, an Initiating Member could submit a PIXL Order specifying that it is willing to automatically match as principal or as agent on behalf of an Initiating Order the price and size of all trading interest and responses to the PIXL Auction Notification ("PAN," as described below) ("auto-match"), in which case the PIXL Order will be stopped at the better of the National Best Bid/Offer ("NBBO") or the Reference BBO[5] on the Initiating Order side.
- Third, an Initiating Member could submit a PIXL Order specifying that it is willing to either: (i) Stop the entire order at a single stop price and auto-match PAN responses, as described below, together with trading interest, at a price or prices that improve the stop price to a specified price above or below which the Initiating Member will not trade (a "Not Worse Than" or "NWT" price); (ii) stop the entire order at a single stop price and auto-match all PAN responses and trading interest at or better than the stop price; or (iii) stop the entire order at the better of the NBBO or Reference BBO on the Initiating Order side, and auto-match PAN responses and trading interest at a price or prices that improve the stop price up to the NWT price. In all cases, if the PHLX Best Bid/Offer ("PBBO") on the same side of the market as the PIXL Order represents a limit order on the book, the stop price must be at least one minimum price improvement increment better than the booked limit order's limit price.

In addition, an Initiating Member may initiate a PIXL Auction by submitting a Complex Order which is of a conforming ratio, as defined in Commentary .08(a)(i) and (a)(ix) to Rule 1080. When submitting a Complex Order, the Initiating Member must stop the PIXL order at a price that is better than the best net price (debit or credit) (i) available on the Complex Order book regardless of the Complex Order book size; and (ii) achievable from the best PHLX bids and offers for the individual options (an "improved net price"), provided in either case that such price is equal to or better than the PIXL Order's limit price.

After the PIXL Order is entered, a PAN is broadcast and a blind Auction ensues for a period of time as determined by the Exchange and announced on the Nasdaq Trader Web site. The Auction period will be no less than one hundred milliseconds and no more than one second. Anyone may respond to the PAN by sending orders or quotes. At the conclusion of the

---

[4] *See* Securities Exchange Act Release Nos. 63027 (October 1, 2010), 75 FR 62160 (October 7, 2010) (SR–Phlx–2010–108) (Order Granting Approval to a Proposed Rule Change Relating to a Proposed Price Improvement System, Price Improvement XL); 65043 (August 5, 2011), 76 FR 49824 (August 11, 2011) (SR–Phlx–2011–104) (Extending Pilot for Price Improvement System, Price Improvement XL); 67399 (July 11, 2012), 77 FR 42048 (July 17, 2012) (SR–Phlx–2012–94) (Extending Pilot for Price Improvement System, Price Improvement XL); 69845 (June 25, 2013), 78 FR 39429 (July 1, 2013) (SR–Phlx–2013–46) (Order Granting Approval To Proposed Rule Change, as Modified by Amendment No. 1, Regarding Complex Order PIXL); 69989 (July 16, 2013), 78 FR 43950 (July 22, 2013) (SR–Phlx–2013–74) (Extending Pilot for Price Improvement System, Price Improvement XL); 72619 (July 16, 2014), 79 FR 42613 (July 22, 2014) (Extending Pilot for Price Improvement System, Price Improvement XL); and 75470 (July 16, 2015) 80 FR 43509 (July 22, 2015) (Amending Exchange Rule 1080(n), Price Improvement XL ("PIXL^{SM}") to Extend, Until July 18, 2016, a Pilot Program).

[5] The "Reference BBO" is defined as the "internal market BBO".

Auction, the PIXL Order will be allocated at the best price(s).

Once the Initiating Member has submitted a PIXL Order for processing, such PIXL Order may not be modified or cancelled. Under any of the above circumstances, the Initiating Member's stop price or NWT price may be improved to the benefit of the PIXL Order during the Auction, but may not be cancelled. Under no circumstances will the Initiating Member receive an allocation percentage, at the final price point, of more than 50% with one competing quote, order or PAN response or 40% with multiple competing quotes, orders or PAN responses, when competing quotes, orders or PAN responses have contracts available for execution.

After a PIXL Order has been submitted, a member organization submitting the order has no ability to control the timing of the execution. The execution is carried out by the Exchange's PHLX XL automated options trading system and pricing is determined solely by the other orders and quotes that are present in the Auction.

The Pilot

Three components of the PIXL system were approved by the Commission on a pilot basis: (1) Paragraphs (n)(i)(A), (n)(i)(B), and (n)(i)(C) of Rule 1080, relating to auction eligibility requirements; (2) paragraphs (n)(ii)(B)(5) and (n)(ii)(D) of Rule 1080, relating to the early conclusion of the PIXL Auction; and (3) paragraph (n)(vii) of Rule 1080, stating that there shall be no minimum size requirement of orders entered into PIXL. The pilot was extended until July 18, 2016.[6] The Exchange notes that during the pilot period it has been required to submit, and has been submitting, certain data periodically as required by the Commission, to provide supporting evidence that, among other things, there is meaningful competition for all size orders and that there is an active and liquid market functioning on the Exchange outside of the Auction mechanism.[7] Further, the Exchange provided certain additional data requested by the Commission regarding trading in the PIXL Auction for the six (6) month period from January 1, 2015 through June 30, 2015. The Exchange represented that it would make publicly available a summary of the data provided to the Commission. The Exchange continues to believe that there remains meaningful competition for all size orders and that there is an active and liquid market functioning on the Exchange outside of the PIXL Auction and that there is significant price improvement for orders entered into the PIXL Auction. The Exchange believes the additional data will substantiate the Exchange's belief and provide further evidence in support of permanent approval of the PIXL Pilot.

The Exchange proposes to extend the pilot through January 18, 2017. The Exchange believes that the proposed extension should afford the Commission additional time to evaluate the pilot.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[8] in general, and with Section 6(b)(5) of the Act,[9] in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, or to regulate by virtue of any authority conferred by the Act matters not related to the purposes of the Act or the administration of the Exchange.

The Exchange believes that the proposed rule change is also consistent with Section 6(b)(8) of the Act[10] in that it does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Specifically, the Exchange believes that PIXL, including the rules to which the pilot applies, results in increased liquidity available at improved prices, with competitive final pricing out of the Initiating Member's complete control. The Exchange believes that PIXL promotes and fosters competition and affords the opportunity for price improvement to more options contracts. The extension proposal allows additional time for the Commission to evaluate the pilot.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposal extends existing pilots that apply to all Exchange members, and enables the Exchange to be competitive in respect of other option exchanges that have similar programs.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and subparagraph (f)(6) of Rule 19b–4 thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6)[13] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requested that the Commission waive the 30-day operative delay. The Exchange noted that the pilot is scheduled to expire July 18, 2016. According to the Exchange, a waiver of the operative delay will allow uninterrupted application of the PIXL pilot and thereby ensure fair competition with other exchanges that have similar programs.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the PIXL pilot to continue uninterrupted, thereby avoiding any potential investor confusion that could result from a temporary interruption in the pilot. Therefore, the Commission designates the proposed rule change to be operative on July 18, 2016.[15]

---

[6] *See supra* note 4.

[7] *See* Exchange Rule 1080(n)(vii).

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78f(b)(8).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2016–75 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2016–75. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2016–75 and should be submitted on or before August 8, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–16859 Filed 7–15–16; 8:45 am]

BILLING CODE 8011–01–P

---

[15] For purposes only of waiving the operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78299; File No. SR–MIAX–2016–20]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

July 12, 2016.

Pursuant to the provisions of section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 30, 2016, Miami International Securities Exchange LLC ("MIAX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX Options Fee Schedule (the "Fee Schedule").

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule to assess certain existing transaction fees, provide certain existing credits, and to afford certain existing discounts, concerning executions stemming from unrelated MIAX Market Maker quotes and unrelated MIAX Market Maker orders that participate in the MIAX PRIME Auction, as described more fully below.

The Exchange proposes to amend section (1)(a)(i) of the Fee Schedule concerning Market Maker[3] Transaction Fees to exclude volume related to certain transaction fees and rebates for Members that participate in the price improvement auction ("PRIME Auction" or "PRIME") pursuant to Exchange Rule 515A,[4] and to state specifically in section (1)(i)(v) of the Fee Schedule that MIAX will assess the Responder to PRIME Auction Fee to: (i) A PRIME AOC Response that executes against a PRIME Order, and (ii) a PRIME Participating Quote or Order (defined below). The Exchange also proposes to amend section (1)(a)(v) to afford the same discounted fee to Prime Participating Quotes or Orders (defined below) that already applies to PRIME AOC Responses, as described more fully below. Under the proposal, MIAX will apply the PRIME Break-up credit (defined below) to the Electronic Exchange Member ("EEM")[5] that submitted the initiating PRIME Order for agency contracts that are submitted to the PRIME Auction that trade with a PRIME AOC Response or with a PRIME Participating Quote or Order (defined below). The Exchange also proposes to amend section (1)(b) of the Fee Schedule to state that MIAX will not assess a Marketing Fee to Market Makers for contracts executed as a PRIME Participating Quote or Order (defined below).

---

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term "Market Makers" refers to "Lead Market Makers", "Primary Lead Market Makers" and "Registered Market Makers" collectively. The term "Lead Market Maker" means a Member registered with the Exchange for the purpose of making markets in securities traded on the Exchange and that is vested with the rights and responsibilities specified in chapter VI of the Exchange's Rules with respect to Lead Market Makers. When a Lead Market Maker is appointed to act in the capacity of a Primary Lead Market Maker, the additional rights and responsibilities of a Primary Lead Market Maker specified in chapter VI of the Exchange's Rules will apply. The term "Primary Lead Market Maker" means a Lead Market Maker appointed by the Exchange to act as the Primary Lead Market Maker for the purpose of making markets in securities traded on the Exchange. The Primary Lead Market Maker is vested with the rights and responsibilities specified in chapter VI of the Exchange's Rules with respect to Primary Lead Market Makers. The term "Registered Market Maker" means a Member registered with the Exchange for the purpose of making markets in securities traded on the Exchange, who is not a Lead Market Maker and is vested with the rights and responsibilities specified in chapter VI of the Exchange's Rules with respect to Registered Market Makers. *See* Exchange Rule 100.

[4] *See* Exchange Rule 515A. *See also* Securities Exchange Act Release Nos. 71640 (March 4, 2014),

PRIME is a process by which a Member may electronically submit for execution an order it represents as agent ("Agency Order") against principal interest and/or an Agency Order against solicited interest. The Agency Order is referred to as a "PRIME Agency Order" for purposes of Section 1(b) of the Fee Schedule. The Member that submits the PRIME Agency Order (the "Initiating Member") agrees to guarantee the execution of the PRIME Agency Order by submitting a contra-side order representing principal interest or solicited interest ("Contra-side Order").[6] When the Exchange receives a properly designated Agency Order for Auction processing, a Request for Responses ("RFR") detailing the option, side, size, and initiating price will be sent to all subscribers of the Exchange's data feeds. Members may submit responses to the RFR (specifying prices and sizes). RFR responses can be either an Auction or Cancel ("AOC") order or an AOC eQuote.[7]

The Exchange proposes to amend section (1) of the Fee Schedule to exclude from the volume determinations in the Market Maker Sliding Scale[8] both PRIME AOC Responses and unrelated MIAX Market Maker quotes or unrelated MIAX Market Maker orders that are received during the Response Time Interval and executed against the PRIME Order. Such unrelated MIAX Market Maker quotes or unrelated MIAX Market Maker orders will be referred to as "PRIME Participating Quotes or Orders" in the Fee Schedule. The Exchange believes that PRIME AOC Responses should be excluded from the volume threshold determinations with regards to non-PRIME transaction fees because the PRIME Fees set forth in section (1)(a)(v) of the Fee Schedule and discussed below are distinct from the Market Maker Transaction Fees described in Section (1)(a)(i). The volume threshold tiers included in the Market Maker Sliding Scale in Section (1)(a) are intended to provide incentive for Market Makers to quote aggressively outside of the PRIME Auction and to reward volume generated from such quotes, whereas the PRIME Fees do not have a sliding scale and are not dependent on percentage volume tiers. Instead, transactions by PRIME Responders already are assessed fees based upon responses to an Auction notification and are distinguished from regular transaction fees that result from different quoting behavior. Thus, the Exchange believes that it is appropriate to exclude PRIME AOC Responses from the calculation of the volume tier thresholds in the Market Maker Sliding Scale.

Similarly, the Exchange believes that PRIME Participating Quotes or Orders should also be excluded from the section (1)(a)(i) volume determinations in the Market Maker Sliding Scale because a PRIME Participating Quote or Order has the same effect as a PRIME AOC Response (*i.e.,* it is received during the Response Time Interval and executed against the PRIME Order). As described more fully below, PRIME Participating Quotes or Orders will be assessed the same Responder to PRIME Auction Fees and credits that are assessed and credited to PRIME AOC Responses.

The Exchange proposes to amend section (1)(i)(v) of the Fee Schedule to state clearly that MIAX will assess the Responder to PRIME Auction Fee to: (i) A PRIME AOC Response that executes against a PRIME Order, and (ii) a PRIME Participating Quote or Order.

Currently, the Exchange assesses PRIME AOC Responses a Responder to PRIME Auction Fee of $0.50 per contract for standard options in Penny Pilot classes and $0.99 per contract in non-Penny Pilot classes. The Exchange is not proposing to amend these fees; the Exchange is simply proposing to add clarifying language to section (1)(a)(v) to state that MIAX will assess the Responder to PRIME Auction Fee to a PRIME AOC Response that executes against a PRIME Order, and add that the Responder to PRIME Auction Fee will also apply to a PRIME Participating Quote or Order. The Exchange believes it is appropriate to assess the same fees to PRIME Participating Quotes or Orders that are assessed to Market Maker responders to the PRIME Auction because PRIME Participating Quotes or Orders receive the same benefit of trading against the PRIME Order. PRIME Participating Quotes or Orders interact in the same manner in the PRIME Auction and receive the same Market Maker trade allocation as MIAX Market Maker responders to the PRIME Auction[9] despite being submitted outside of the PRIME Auction. The Exchange believes that it is fair and reasonable to assess the same fees to MIAX Market Makers for all quotes or orders that benefit equally from interaction with the PRIME Order, regardless of whether they are submitted as PRIME Auction Responses or as PRIME Participating Orders or Quotes. The Exchange notes that, while Market Maker Transaction Fees described in section (1)(a)(i) may be subject to Marketing Fees (as set forth in section (1)(b) of the Fee Schedule and discussed below), PRIME AOC Responses and PRIME Participating Quotes or Orders will not be subject to Marketing Fees. This treatment of the Marketing Fees is consistent with the Exchange's current Fee Schedule since the Responder to Prime Auction Fee of $.50 is not subject to Marketing Fees.

The Exchange also proposes to include PRIME Participating Quotes or Orders in the determination of the Prime Break-up Credit. The PRIME Break-up Credit is currently credited on a per contract basis to the Initiating EEM for each PRIME Order contract that trades with a PRIME AOC Response. The Exchange currently applies a per contract PRIME Break-up Credit of $0.25 for Penny Classes, and $0.60 for non-

---

79 FR 13334 (March 10, 2014) (SR–MIAX–2014–09) ("Notice"); 72009 (April 23, 2014), 79 FR 24032 (April 29, 2014) (SR–MIAX–2014–09).

[5] The term "Electronic Exchange Member" means the holder of a Trading Permit who is not a Market Maker. Electronic Exchange Members are deemed "members" under the Exchange Act. *See* Exchange Rule 100.

[6] The paired order submitted to PRIME that includes both the PRIME Agency Order and the Contra-side Order is referred to as the PRIME Order for purposes of the Fee Schedule.

[7] *See* Exchange Rules 515A(a)(2)(i)(D), 516(b)(4), 517(a)(2)(ii).

[8] The MIAX Market Maker Sliding Scale for transaction fees reduces a MIAX Market Maker's per contract transaction fee based on percentages of total national Market Maker volume of any options classes that trade on the exchange during the calendar month. The MIAX Market Maker Sliding Scale applies to all MIAX Market Makers for transactions in all products except mini-options. *See* Fee Schedule, section (1)(a)(i).

[9] *See* Exchange Rule 515A(a)(2)(iii).

Penny Classes, to MIAX Market Makers. The Exchange is not proposing to amend these credits; the Exchange is simply proposing that in addition to trades with PRIME AOC Responses, MIAX will apply the PRIME Break-up Credit to the EEM that submitted the PRIME Order for agency[10] contracts that are submitted to the PRIME Auction that trade with a PRIME Participating Quote or Order. The Exchange believes that, just as with respect to the PRIME Auction Responder Fees described above, the PRIME Break-up Credit should apply to PRIME Participating Quotes or Orders because a PRIME Participating Quote or Order serves the same function as a PRIME AOC Response (*i.e.,* it is received during the Response Time Interval and executed against the PRIME Order). The Exchange does not currently apply the PRIME Break-up Credit to the Initiating EEM for those PRIME Order contracts that trade with unrelated quotes and orders. Other than the proposed change with regard to PRIME Participating Quotes or Orders discussed above, the Exchange is not proposing any additional change to the application of PRIME Break-up Credits. The Exchange will continue its current practice of not applying the PRIME Break-up Credit to Initiating EEMs for those PRIME Order contracts that trade with unrelated (*i.e.,* non-MIAX Market Maker) orders.

The Exchange is also proposing to amend section (1)(a)(v) of the Fee Schedule to include PRIME Participating Quotes or Orders in certain discounted fees that apply to qualifying Members and affiliates, which will be known as the Discounted PRIME Response Fee. The Discounted PRIME Response Fee is $0.46 per contract for standard options in Penny Pilot classes, and $0.95 per contract for standard options in non-Penny Pilot classes.

The Discounted PRIME Response Fee, which already applies to PRIME AOC Responses (currently known as the PRIME AOC Response Fee), would apply to any Member or its affiliates of at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A, that qualifies for the Priority Customer Rebate Program[11] volume tiers 3 or 4 and submits a PRIME Participating Quote or Order that is received during the Response Time Interval and executed against the PRIME Order. Members and their affiliates that meet the above criteria qualify for the Discounted PRIME Response Fee through activity that falls outside of the PRIME Auction (*i.e.,* submitting Priority Customer Orders for execution on the Exchange). The Exchange believes that a Member that submits a sufficient number Priority Customer Orders to qualify for Priority Customer Rebate Program volume tiers 3 or 4 should receive the benefit of the Discounted PRIME Response Fee, and the Exchange proposes to reward such Members and their qualified affiliates equally for PRIME AOC Responses and PRIME Participating Quotes or Orders.

The Exchange believes that assessing the Discounted PRIME Response Fee to PRIME Participating Quotes or Orders is a fair treatment of PRIME Participating Quotes or Orders because it puts them on equal footing with PRIME AOC Responses, which serve the same function (*i.e.,* execution against PRIME Orders) during the Response Time Interval, and qualifying Members and affiliates submitting [sic] The Exchange will continue its current practice of not applying the PRIME Break-up Credit to Initiating EEMs for those PRIME Order contracts that trade with unrelated (non-MIAX Market Maker) orders. should be entitled to the same discount [sic]. The Exchange is also proposing to exclude PRIME Participating Quotes or Orders from the Marketing Fees described in section (1)(b) of the Fee Schedule. Currently, MIAX assesses a Marketing Fee to all Market Makers for contracts, including mini options, they execute in their assigned classes when the contra-party to the execution is a Priority Customer. MIAX will not assess a Marketing Fee to Market Makers for contracts executed as a PRIME Agency Order, Contra-side Order, Qualified Contingent Cross Order, or a PRIME AOC Response in the PRIME Auction; unless it executes against an unrelated order. The Exchange proposes to amend section (1)(b) to exclude PRIME Participating Quotes or Orders from the Marketing Fees as well. The Exchange believes that this treatment of the PRIME Participating Quote, on an equal basis with a PRIME AOC Response, is consistent with the proposed fees and credits described above.

Finally, the Exchange is proposing to exclude PRIME Participating Quotes or Orders from the Posted Liquidity Marketing Fee described in section (1)(b). MIAX currently assesses an additional $0.12 per contract Posted Liquidity Marketing Fee to all Market Makers for any standard options overlying EEM, GLD, IWM, QQQ, and SPY that Market Makers execute in their assigned class when the contra-party to the execution is a Priority Customer and the Priority Customer order was posted on the MIAX Book at the time of the execution. MIAX does not assess the additional Posted Liquidity Marketing Fee to Market Makers for contracts executed as a PRIME Agency Order, Contra-side Order, Qualified Contingent Cross Order, or a PRIME AOC Response in the PRIME Auction. In order to ensure the same treatment afforded to PRIME AOC Responses, the Exchange is proposing to exclude contracts executed as PRIME Participating Quotes from the Posted Liquidity Marketing Fee.

The proposed changes to the Fee Schedule will become operative on July 1, 2016.

2. Statutory Basis

The Exchange believes that its proposal to amend its fee schedule is consistent with section 6(b) of the Act[12] in general, and furthers the objectives of section 6(b)(4) of the Act[13] and section 6(b)(5) of the Act[14] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in, securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest, and in that it is an equitable allocation of reasonable fees and other charges among Exchange members.

The Exchange's proposal to exclude from the volume threshold determination volume related to PRIME AOC Responses and PRIME Participating Quotes or Orders is reasonable because the Exchange already assesses a separate fee for such transactions from the same Market Makers that receive the benefit of interaction with the PRIME Order in the PRIME Auction. The Exchange's proposal to exclude PRIME Auction-related volume from the non-PRIME Auction-related volume threshold determination for Market Maker Transaction Fees is equitable and not unfairly discriminatory because the exclusion will apply to all Market Makers.

---

[10] The Exchange is proposing to add the word "agency" to this provision for clarity.

[11] MIAX credits each Member the per contract amount resulting from each Priority Customer order transmitted by that Member which is executed electronically on the Exchange in all multiply-listed option classes (with certain exclusions) provided the Member meets certain percentage thresholds in a month as described in the Priority Customer Rebate Program table. *See* Fee Schedule Section (1)(a)(iii).

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4).

[14] 15 U.S.C. 78f(b)(5).

The Exchange's determination not to apply the PRIME Auction-related volume to the section (1)(a)(i) tiers reflects the Exchange's belief that these volume tiers are related to quoting and trading activity that falls outside of the PRIME Auction, and that discounted per contract fees for non-PRIME Auction activity should be earned by achieving certain volume thresholds in the Market Maker Sliding Scale through non-PRIME Auction activity.

The Exchange believes that a Member that submits a sufficient number of Priority Customer Orders to qualify for the Priority Customer Rebate Program volume tiers 3 or 4 should receive the benefit of the Discounted PRIME Response Fee, and the Exchange proposes to reward such Members and their qualified affiliates equally for PRIME AOC Responses and PRIME Participating Quotes or Orders. Such a reward should provide incentive to Members to submit a greater number of Priority Customer Orders to the Exchange, thus removing impediments to and perfecting the mechanisms of a free and open market and a national market system by providing more opportunities for the execution of Priority Customer Orders on the Exchange. Additionally, the Discounted PRIME Response Fee is fair and reasonable because it will apply equally to PRIME AOC Responses, as it does today, and to PRIME Participating Quotes or Orders, both of which result in executions against the PRIME Order regardless of whether they are submitted as an Auction Response or as an unrelated quote or order.

Additionally, the proposed amendments to the Fee Schedule represent the equitable allocation of reasonable fees and other charges among Exchange members, because the proposed fees and credits applicable to Market Makers and EEMs relating to PRIME Participating Quotes or Orders are identical to the fees and credits applicable to PRIME AOC Responses, which function in the same manner as PRIME Participating Quotes or Orders. Moreover, the proposed amendments are equitable and reasonable because the same fees and credits apply equally to all participants in each category (Market Makers or EEMs) respectively.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow. The Exchange believes that the proposed rule change reflects this competitive environment because it modifies the Exchange's Market Maker transaction fees in a manner that encourages market participants to provide liquidity and to send order flow to the Exchange both in the PRIME Auction and outside the PRIME Auction.

The Exchange believes that the proposal enhances competition by providing incentives such as the Discounted PRIME Response Fee to Members and their qualified affiliates that submit Priority Customer Orders to the Exchange, which deepens liquidity on the Exchange and thus provides more opportunities to execute transactions on MIAX.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act,[15] and Rule 19b–4(f)(2)[16] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MIAX–2016–20 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2016–20. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2016–20, and should be submitted on or before August 8, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–16858 Filed 7–15–16; 8:45 am]

BILLING CODE 8011–01–P

---

[15] 15 U.S.C. 78s(b)(3)(A)(ii).

[16] 17 CFR 240.19b–4(f)(2).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78306; File No. SR–BatsBZX–2016–33]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use of Bats BZX Exchange, Inc.

July 12, 2016.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on July 1, 2016, Bats BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend its Fee Schedule to adopt a new tier under footnote 1 called the Cross-Asset Add Volume Tier.

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule to adopt a new tier under footnote 1 called the Cross-Asset Add Volume Tier.

Currently, with respect to the Exchange's equities trading platform (''BZX Equities'') the Exchange determines the liquidity adding rebate that it will provide to Members using the Exchange's tiered pricing structure. Under such pricing structure, a Member will receive a rebate of anywhere between $0.0020 and $0.0034 per share executed, depending on the volume tier for which such Member qualifies. Included amongst the volume tiers offered by the Exchange are various tiers for purposes of BZX Equities pricing, which require participation on the Exchange's options platform (''BZX Options'') and are generally referred to as ''Cross-Asset Tiers''. For instance, pursuant to current footnote 12 of the Fee Schedule, the Exchange offers a Cross-Asset Tape B Tier, which provides an enhanced rebate of $0.0028 [sic] per share on orders that add liquidity in Tape B securities submitted by Members with: (1) A Tape B Step-Up Add TCV[5] from February 2015 equal to or greater than 0.06%, and (2) Options Market Maker Add TCV[6] equal to or greater than 0.75%.

In connection with the proposed tier described below, the Exchange proposes to adopt a definition for Options Customer Add TCV that is similar to the definition of Options Market Maker Add TCV set forth on the Exchange's Fee Schedule. As proposed, ''Options Customer Add TCV'' for purposes of equities pricing would mean ''ADAV resulting from Customer orders as a percentage of TCV, using the definitions of ADAV, Customer and TCV as provided under the Exchange's fee schedule for BZX Options.''

The Exchange proposes to adopt a new tier under footnote 1 titled the ''Cross-Asset Add Volume Tier.'' Under the Cross-Asset Add Volume Tier, the Exchange is proposing to provide a rebate of $0.0028 per share to Members with: (1) An ADAV as a percentage of TCV equal to or greater than 0.15%; and (2) an Options Customer Add TCV equal to or greater than 0.10%. As is the case with any other rebates on the Fee Schedule, to the extent that a Member qualifies for higher rebates than those provided under the proposed Cross-Asset Add Volume Tier, the higher rebates shall apply.

Implementation Date

The Exchange proposes to implement these amendments to its Fee Schedule immediately.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of section 6 of the Act,[7] in general, and furthers the objectives of section 6(b)(4),[8] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange also notes that it operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The proposed rule change reflects a competitive pricing structure designed to incent market participants to direct their order flow to the Exchange. The Exchange believes that the proposed tier is equitable and non-discriminatory in it would apply uniformly to all Members. The Exchange believes the rates remain competitive with those charged by other venues and, therefore, reasonable and equitably allocated to Members.

Volume-based rebates and fees such as the proposed Cross-Asset Add Volume Tier have been widely adopted by equities and options exchanges and are equitable because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns, and introduction of higher volumes of orders into the price and volume discovery processes.

The Exchange believes that the proposal to add a Cross-Asset Add Volume Tier is a reasonable, fair and equitable, and not unfairly discriminatory allocation of fees and rebates because it will provide Members with an additional incentive to reach certain thresholds on both BZX Equities and BZX Options. The increased liquidity from this proposal also benefits all investors by deepening the

---

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] As defined in the Exchange's Fee Schedule.

[6] *Id.*

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(4).

BZX Equities and BZX Options liquidity pools, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection. Such pricing programs thereby reward a Member's growth pattern on the Exchange and such increased volume increases potential revenue to the Exchange, and will allow the Exchange to continue to provide and potentially expand the incentive programs operated by the Exchange. To the extent a Member participates on the Exchange but not on BZX Options, the Exchange does believe that the proposal is still reasonable, equitably allocated and non-discriminatory with respect to such Member based on the overall benefit to the Exchange resulting from the success of BZX Options. As noted above, such success allows the Exchange to continue to provide and potentially expand its existing incentive programs to the benefit of all participants on the Exchange, whether they participate on BZX Options or not. The proposed pricing program is also fair and equitable in that membership in BZX Options is available to all market participants which would provide them with access to the benefits on BZX Options provided by the proposed changes, as described above, even where a member of BZX Options is not necessarily eligible for the proposed increased rebates on the Exchange. Further, the proposed changes will result in Members receiving either the same or an increased rebate than they would currently receive.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe its proposed amendment to its Fee Schedule would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed change represents a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. Additionally, Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed change will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets.

The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee structures to be unreasonable or excessive. The proposed changes are generally intended to enhance the rebates for liquidity added to the Exchange, which is intended to draw additional liquidity to the Exchange. The Exchange does not believe the proposed amendments would burden intramarket competition as they would be available to all Members uniformly.

The Exchange does not believe that the proposed new Cross-Asset Add Volume Tier would burden competition, but instead, enhances competition, as it is intended to increase the competitiveness of and draw additional volume to the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act[9] and paragraph (f) of Rule 19b–4 thereunder.[10] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BatsBZX–2016–33 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BatsBZX–2016–33. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BatsBZX–2016–33 and should be submitted on or before August 8, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–16850 Filed 7–15–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78298; File No. SR–BX–2016–040]

Self-Regulatory Organizations; NASDAQ BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Detection of Loss of Connection

July 12, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 8, 2016, NASDAQ BX, Inc. ("BX" or

---

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f).

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

"Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Chapter VI, Section 6, entitled "Acceptance of Quotes and Orders" to adopt functionality which is designed to assist BX Participants in the event that they lose communication with their assigned Financial Information eXchange ("FIX")[3] or Specialized Quote Feed ("SQF")[4] Ports due to a loss of connectivity.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqbx.cchwallstreet.com/*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Chapter VI, Section 6, entitled "Acceptance of Quotes and Orders" to adopt a new section "e" entitled "Detection of Loss of Connection," a new automated process which BX proposes to adopt for its SQF[5] and FIX Ports in the event that they lose communication with a Client Application due to a loss of connectivity. This feature is designed to protect BX Options Market Makers[6] and other market participants from inadvertent exposure to excessive risk.

By way of background, BX Participants currently enter quotes and orders utilizing either an SQF or FIX Port. SQF is utilized by BX Options Market Makers and FIX is utilized by all market participants. These ports are System[7] components through which a BX Participant communicates its quotes and/or orders to the BX match engine through the BX Participant's Client Application.

Under the proposed rule change, an SQF Port would be defined as the Exchange's System component through which BX Participants communicate their quotes from the BX Participant's Client Application at proposed Chapter VI, Section 6(e)(i)(B). A FIX Port would be defined as the Exchange's System component through which BX Participants communicate their orders from the BX Participant's Client Application at proposed Chapter VI, Section 6(e)(i)(C). BX Options Market Makers may submit quotes to the Exchange from one or more SQF Ports. Similarly, market participants may submit orders to the Exchange from one or more FIX Ports. The proposed cancellation feature will be mandatory for each BX Options Market Maker utilizing SQF for the removal of quotes and optional for any market participant utilizing FIX for the removal of orders.

When the SQF Port detects the loss of communication with a BX Participant's Client Application because the Exchange's server does not receive a Heartbeat message[8] for a certain period of time (a period of "nn" seconds), the Exchange will automatically logoff the BX Participant's affected Client Application and automatically cancel all of the BX Participant's open quotes. Quotes will be cancelled across all Client Applications that are associated with the same BX Options Market Makers ID and underlying issues.

The Exchange proposes to define "Client Application" as the System component of the BX Participant through which the BX Participant communicates its quotes and orders to the Exchange at proposed Chapter VI, Section 6(e)(i)(D). The Exchange proposes to define a "Heartbeat" message as a communication which acts as a virtual pulse between the SQF or FIX Port and the Client Application at proposed Chapter VI, Section 6(e)(i)(A). The Heartbeat message sent by the BX Participant and subsequently received by the Exchange allows the SQF or FIX Port to continually monitor its connection with the BX Participant.

SQF Ports

The Exchange's System has a default time period, which will trigger a disconnect from the Exchange and remove quotes, set to fifteen (15) seconds for SQF Ports. A BX Participant may change the default period of "nn" seconds of no technical connectivity to trigger a disconnect from the Exchange and remove quotes to a number between one hundred (100) milliseconds and 99,999 milliseconds for SQF Ports prior to each session of connectivity to the Exchange. This feature is enabled for each BX Options Market Maker and may not be disabled.

There are two ways to change the number of "nn" seconds: (1) Systemically or (2) by contacting the Exchange's operations staff. If the BX Participant systemically changes the default number of "nn" seconds, that new setting shall be in effect throughout the current session of connectivity[9] and will then default back to fifteen seconds.[10] The BX Participant may change the default setting systemically prior to each session of connectivity. The BX Participant may also communicate the time to the Exchange by calling the Exchange's operations staff. If the time period is communicated to the Exchange by calling Exchange operations, the number of "nn" seconds selected by the BX Participant shall persist for each subsequent session of connectivity until the BX Participant either contacts Exchange operations and changes the setting or the BX Participant systemically selects another time period prior to the next session of connectivity.

---

[3] FIX permits the entry of orders.

[4] SQF permits the transmission of quotes to the Exchange by a BX Options Market Makers using its Client Application. SQF Auction Responses would not be cancelled pursuant to this Chapter VI, Section 6(e) because other rules govern auction specific responses, see Chapter VI, Section 9, entitled "Price Improvement Auction ("PRISM").

[5] Today, SQF and FIX have the capability to disconnect and cancel quotes and orders, respectively, for technical disconnects although there is no automated process triggered by pre-set conditions. The rule change would adopt a formalized process to automatically disconnect and cancel quotes for SQF and disconnect and cancel orders, if elected, for FIX when there is a loss of communication with the BX Participant's Client Application.

[6] The term "BX Options Market Makers" or "Options Market Makers" (herein "BX Options Market Makers") means an Options Participant registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange and that is vested with the rights and responsibilities specified in Chapter VII of these Rules." *See* BX Rules at Chapter I, Section 1(a)(9).

[7] The term "System" shall mean the automated system for order execution and trade reporting owned and operated by BX as the BX Options market. *See* Chapter VI, Section 1(a).

[8] It is important to note that the Exchange separately sends a connectivity message to the BX Participant as evidence of connectivity.

[9] Each time the BX Participant connects to the Exchange's System is a new period of connectivity. For example, if the BX Participant were to connect and then disconnect within a trading day several times, each time the BX Participant disconnected the next session would be a new session of connectivity.

[10] The Exchange's System would capture the new setting information that was changed by the BX Participant and utilize the amended setting for that particular session. The setting would not persist beyond the current session of connectivity and the setting would default back to 15 seconds for the next session if the BX Participant did not change the setting again.

FIX Ports

The Exchange's System has a default time period, which will trigger a disconnect from the Exchange and remove orders, set to thirty (30) seconds for FIX Ports. The BX Participant may disable the removal of orders feature but not the disconnect feature. If the BX Participant elects to have its orders removed, in addition to the disconnect, the BX Participant may determine a time period of no technical connectivity to trigger the disconnect and removal of orders between one (1) second and thirty (30) seconds for FIX Ports prior to each session of connectivity to the Exchange.

There are two ways to change the number of "nn" seconds: (1) Systemically or (2) by contacting the Exchange's operations staff. If the BX Participant systemically changes the default number of "nn" seconds, that new setting shall be in effect throughout that session of connectivity and will then default back to thirty seconds at the end of that session. The BX Participant may change the default setting systemically prior to each session of connectivity. The BX Participant may also communicate the time to the Exchange by calling the Exchange's operations staff. If the time period is communicated to the Exchange by calling Exchange operations, the number of "nn" seconds selected by the BX Participant shall persist for each subsequent session of connectivity until the BX Participant either contacts Exchange operations and changes the setting or the BX Participant systemically selects another time period prior to the next session of connectivity.

Similar to SQF Ports, when a FIX Port detects the loss of communication with a Participant's Client Application for a certain time period (a period of "nn" seconds), the Exchange will automatically logoff the BX Participant's affected Client Application and if elected, automatically cancel all open orders. The BX Participant may have an order which has routed away prior to the cancellation, in the event that the order returns to the Order Book, because it was either not filled or partially filled, that order will be subsequently cancelled.

The disconnect feature is mandatory for FIX users however the user has the ability to elect to also enable a removal feature, which will cancel all open orders submitted through that FIX Port. If the removal of orders feature is not enabled, the System will simply disconnect the FIX user and not cancel any orders. The FIX user would have to commence a new session to add, modify or cancel its orders once disconnected. The Exchange will issue an Options Trader Alert advising BX Participants on the manner in which they should communicate the number of "nn" seconds to the Exchange for SQF and FIX Ports.

The trigger for the SQF and FIX Ports is event and Client Application specific. The automatic cancellation of the BX Options Market Maker's quotes for SQF Ports and open orders, if elected by the BX Participant for FIX Ports entered into the respective SQF or FIX Ports via a particular Client Application will neither impact nor determine the treatment of the quotes of other BX Options Market Makers entered into SQF Ports or orders of the same or other BX Participants entered into the FIX Ports via a separate and distinct Client Application. In other words, with respect to quotes, each BX Options Market Maker only maintains one quote in a given option in the order book. A new quote would replace the existing quote. Orders on the other hand do not replace each other in the order book as multiple orders may exist in a given option at once. Therefore the difference in the impact as between BX Options Market Makers submitting quotes and BX Participants submitting orders is that quotes may continue to be submitted and/or refreshed by unaffected BX Options Market Makers because these market participants are cancelled based on ID when an SQF Port disconnects, whereas all of the open orders submitted by a given firm will be impacted when a FIX port disconnects, if the firm elected to have orders cancelled.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Section 6(b)(5) of the Act,[12] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by imposing this mandatory removal functionality on BX Options Market Makers to prevent disruption in the marketplace and also offering this removal feature to other market participants.

BX Options Market Makers will be required to utilize this removal functionality with respect to SQF Ports. This feature will remove impediments to and perfect the mechanism of a free and open market and a national market system and protect investors and the public interest by requiring BX Options Market Makers quotes to be removed in the event of a loss of connectivity with the Exchange's System. BX Options Market Makers provide liquidity to the market place and have obligations unlike other market participants.[13] This risk feature is important because it will enable BX Options Market Makers to avoid risks associated with inadvertent executions in the event of a loss of connectivity with the Exchange. The proposed rule change is designed to not permit unfair discrimination among market participants, as it would apply uniformly to all BX Options Market Makers utilizing SQF.

The disconnect feature of FIX is mandatory, however market participants will have the option to either enable or disable the cancellation feature, which would result in the cancellation of all orders submitted over a FIX port when such port disconnects. It is appropriate to offer this removal feature as optional to all market participants utilizing FIX, because unlike BX Options Market Makers who are required to provide quotes in all products in which they are registered, market participants utilizing FIX do not bear the same magnitude of risk of potential erroneous or unintended executions. In addition, market participants utilizing FIX may desire their orders to remain on the order book despite a technical disconnect, so as not to miss any opportunities for execution of such orders while the FIX session is disconnected.

Utilizing a time period for SQF Ports of fifteen (15) seconds and permitting the BX Options Market Maker to modify the setting to between 100 milliseconds and 99,999 milliseconds is consistent with the Act because the Exchange does not desire to trigger unwarranted logoffs of BX Options Market Makers and therefore allows BX Options Market Makers the ability to set their time in order to enable the Exchange the authority to disconnect the BX Options Market Maker with this feature. Each BX Options Market Maker has different levels of sensitivity with respect to this disconnect setting and each BX Options Market Maker has their own system safeguards as well. A default setting of fifteen (15) seconds is appropriate to capture the needs of all BX Options Market Makers and high enough not to trigger unwarranted removal of quotes.

---

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] Pursuant to BX Rules at Chapter VII, Section 5, entitled "Obligations of BX Options Market Makers," in registering as a market maker, an Options Participant commits himself to various obligations. Transactions of a BX Options Market Makers must constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and BX Options Market Makers should not make bids or offers or enter into transactions that are inconsistent with such course of dealings. Further, all BX Options Market Makers are designated as specialists on BX for all purposes under the Act or rules thereunder.

Further, BX Options Market Makers are able to customize their setting. The Exchange's proposal to permit a timeframe for SQF Ports between 100 milliseconds and 99,999 milliseconds is consistent with the Act and the protection of investors because the purpose of this feature is to mitigate the risk of potential erroneous or unintended executions associated with a loss in communication with a Client Application. BX Options Market Makers are able to better anticipate the appropriate time within which they may require prior to a logoff as compared to the Exchange. BX Options Market Makers are offered a timeframe by the Exchange within which to select the appropriate time. The Exchange does not desire to trigger unwarranted logoffs of BX Options Market Makers and therefore permits BX Options Market Makers to provide an alternative time to the Exchange, within the Exchange's prescribed timeframe, which authorized the Exchange to disconnect the BX Options Market Maker. The "nn" seconds serve as the BX Options Market Maker's instruction to the Exchange to act upon the loss of connection and remove quotes from the System. This range will accommodate BX Options Market Makers in selecting their appropriate times within the prescribed timeframes.

Also, BX Options Market Makers have quoting obligations[14] and are more sensitive to price movements as compared to other market participants. It is consistent with the Act to provide a wider timeframe within which to customize settings for FIX Ports as compared to SQF Ports. BX Options Market Makers need to remain vigilant of market conditions and react more quickly to market movements as compared to other BX Participants entering orders into the System. The proposal acknowledges this sensitivity borne by BX Options Market Makers and reflects the reaction time of BX Options Market Makers as compared to other BX Participants entering orders. Of note, the proposed customized timeframe for FIX would be too long for BX Options Market Makers given their quoting requirements and sensitivity to price movements. BX Options Market Makers would be severely impacted by a loss of connectivity of more than several seconds. The BX Options Market Maker would have exposure during the time period in which they are unable to manage their quote and update that quote. The BX Options Market Maker is best positioned to determine their setting.

The Exchange's proposal is further consistent with the Act because it will mitigate the risk of potential erroneous or unintended executions associated with a loss in communication with a Client Application which protects investors and the public interest. Also, any interest that is executable against a BX Options Market Maker's quotes that is received[15] by the Exchange prior to the trigger of the disconnect to the Client Application, which is processed by the System, automatically executes at the price up to the BX Options Market Maker's size. In other words, the System will process the request for cancellation in the order it was received by the System.

The System operates consistently with the firm quote obligations of a broker-dealer pursuant to Rule 602 of Regulation NMS. Specifically, with respect to BX Options Market Makers, their obligation to provide continuous two-sided quotes on a daily basis is not diminished by the removal of such quotes triggered by the disconnect. BX Options Market Makers are required to provide continuous two-sided quotes on a daily basis.[16] BX Options Market Makers will not be relieved of the obligation to provide continuous two-sided quotes on a daily basis, nor will it prohibit the Exchange from taking disciplinary action against a BX Options Market Makers for failing to meet the continuous quoting obligation each trading day as a result of disconnects.

Today, BOX Options Exchange LLC offers its market makers a similar feature to the one proposed by the Exchange for the automatic removal of quotes when connectivity issues arise.[17] BOX automatically cancels a market maker's quotes for all appointed classes when BOX loses communication with a market maker's trading host for a specified time period. BX also proposes to similarly cancel BX Options Market Makers open quotes associated with the same BX Options Market Makers ID and underlyings. BX proposes to cancel all BX Options Market Maker's quotes in options which are assigned to that particular BX Options Market Makers. BOX appears to similarly cancel all open quotes in options which are assigned to a specific market maker. BOX's timeframe is no less than 1 second or no greater than 9 seconds. BX proposes a default timeframe for SQF Ports of fifteen (15) seconds with the ability to modify this setting with a value between 100 milliseconds and 99,999 milliseconds. The proposal to permit BX Options Market Makers to amend the default setting at the beginning of each session of connectivity is consistent with the Act because it avoids unwarranted logoffs of BX Options Market Makers and provides BX Options Market Makers the opportunity to set a time, within the prescribed timeframe, to authorize the Exchange to disconnect the BX Options Market Maker.

Another distinction to note is that while BOX sets the time for participants, BX permits BX Participants to modify the default setting for SQF Ports to a more appropriate time within a set of parameters. While BOX does not offer the cancellations of orders, Chicago Board Options Exchange, Incorporated's ("CBOE") does offer its participants a similar mechanism to cancel orders. CBOE's proposal is discussed further below.

With respect to FIX Ports, the Exchange will offer this optional removal functionality to all market participants. Offering the removal feature on a voluntary basis to all other non-BX Options Market Makers is consistent with the Act because it permits them an opportunity to utilize this risk feature, if desired, and avoid risks associated with inadvertent executions in the event of a loss of connectivity with the Exchange. The removal feature is designed to mitigate the risk of missed and/or unintended executions associated with a loss in communication with a Client Application. The proposed rule change is designed to not permit unfair discrimination among market participants, as this removal feature will be offered uniformly to all BX Participants utilizing FIX.

The Exchange will disconnect BX Participants from the Exchange and not cancel its orders if the removal feature is disabled. The disconnect feature is mandatory and will cause the BX Participant to be disconnected within the default timeframe or the timeframe otherwise specified by the BX Participant. This feature is consistent with the Act because it enables FIX users the ability to disconnect from the Exchange, assess the situation and make a determination concerning their risk exposure. The Exchange notes that in the event that orders need to be removed, the BX Participant may elect to utilize the Kill Switch[18] feature. It is consistent with the Act to require other market participants to be disconnected because the BX Participant is otherwise not connected to the Exchange's System and the BX Participant simply needs to reconnect to commence submitting and cancelling orders. Requiring a disconnect when a loss of communication is detected is a rational course of action for the Exchange to alert the BX Participant of the technical connectivity issue.

---

[14] *Id.*

[15] The time of receipt for an order or quote is the time such message is processed by the Exchange book.

[16] *See* note 13 above.

[17] *See* BOX Rule 8140.

The Exchange's proposal to set a default timeframe of thirty (30) seconds and permit a FIX user to modify the timeframe for FIX ports to between 1 second and 30 seconds for the removal of orders is consistent with the Act and the protection of investors because the purpose of this optional feature is to mitigate the risk of potential erroneous or unintended executions associated with a loss in communication with a Client Application. BX Participants selecting the removal feature are able to better anticipate the appropriate time that they require prior to a logoff as compared to the Exchange, within the Exchange's prescribed timeframes. The Exchange does not desire to trigger unwarranted logoffs of BX Participants and therefore permits BX Participants to provide a time to the Exchange, within the Exchange's prescribed timeframe, to authorize the Exchange to disconnect the BX Participant and remove orders. The "nn" seconds serve as the BX Participant's instruction to the Exchange to act upon the loss of connection and remove orders from the System. The BX Participant is also best positioned to determine that they only desire the disconnect feature, which is mandatory, and do not desire to have their orders removed.

The Exchange's proposal to offer other market participants the removal feature on a voluntary basis is similar to CBOE's Rule.[19] CBOE offers market participants, on a voluntary basis, the ability to cancel orders entered through FIX when a technical disconnect occurs, similar to the BX proposal. CBOE's Rule offers participants the opportunity to cancel orders within a timeframe determined by the Trading Permit Holder. The default value selected by the CBOE is no less than 5 seconds. The Exchange's default timeframe for the disconnect and removal of orders for FIX is 30 seconds with the ability to modify that timeframe to between 1 second and 30 seconds, on a session by session basis, in contrast to CBOE. Also, in contrast to CBOE, FIX users may choose to enable or disable the cancellation feature when a disconnect occurs. The proposed timeframe for the FIX feature is consistent with the Act because the Exchange seeks to provide BX Participants with the ability to select the amount of time that they desire for a loss of communication prior to taking action to cancel open orders or simply disconnect. The BX Participant should have the ability to select the appropriate time, within a prescribed timeframe, for authorizing the Exchange to cancel its open orders or simply disconnect from the Exchange. Inadvertent cancellations may create a greater risk of harm to investors and the BX Participant is better positioned to determine the appropriate time, with the prescribed timeframe, to remove orders or disconnect. CBOE's rule also offers participants the ability to cancel orders as proposed by BX, on a voluntary basis.

The proposed rule change will help maintain a fair and orderly market which promotes efficiency and protects investors. This mandatory removal feature for BX Options Market Makers and optional removal for all other market participants will mitigate the risk of potential erroneous or unintended executions associated with a loss in communication with a Client Application.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange does not believe the proposed rule change will cause an undue burden on intra-market competition because BX Options Market Makers, unlike other market participants, have greater risks in the market place. Quoting across many series in an option creates large principal positions that expose BX Options Market Makers, who are required to continuously quote in assigned options, to potentially significant market risk. Providing a broader timeframe for the disconnect and removal of orders for FIX as compared to the removal of quotes for SQF Ports does not create an undue burden on competition. BX Options Market Makers have quoting obligations[20] and are more sensitive to price movements as compared to other market participants. The proposal is consistent with the Act because it provides a tighter timeframe for the disconnect and removal of quotes for SQF Ports as compared to the removal of orders for FIX Ports.

BX Options Market Makers need to remain vigilant of market conditions and react more quickly to market movements as compared to other BX Participants entering multiple orders into the System. The proposal reflects this sensitivity borne by BX Options Market Makers and reflects the reaction time of BX Options Market Makers as compared to other BX Participants entering orders. Offering the removal feature to other market participants on an optional basis does not create an undue burden on intra-market competition because unlike BX Options Market Makers, other market participants do not bear the same risks of potential erroneous or unintended executions. FIX users have the opportunity to disable the cancellation feature and simply disconnect from the Exchange. FIX users may also set a timeframe that is appropriate for their business. It is appropriate to offer this optional cancellation functionality to other market participants for open orders, because those orders are subject to risks of missed and/or unintended executions due to a lack of connectivity which the BX Participants need to weigh. Finally, the Exchange does not believe that such change will impose any burden on inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. Other options exchanges offer similar functionality.[21]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[22] and subparagraph (f)(6) of Rule 19b–4 thereunder.[23]

---

[18] *See* BX Rule at Chapter VI, Section 6(d).

[19] *See* CBOE Rule 6.23C.

[20] *See* note 13 above.

[21] *See* BOX's Rule 8140 and CBOE's Rule 6.23C.

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days from the date of filing. However, Rule 19b–4(f)(6)(iii)[24] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that it may immediately offer the proposed risk protection feature. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Exchange proposes to adopt a functionality designed to assist BX Participants with managing certain risks in the event that a BX Participant loses communication with its FIX or SQF Ports due to a loss of connectivity. The Commission notes that two other options exchanges currently have similar risk protection functionalities for their members.[25] Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[26] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BX–2016–040 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2016–040. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2016–040 and should be submitted on or before August 8, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–16857 Filed 7–15–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78308; File No. 265–29]

Equity Market Structure Advisory Committee

AGENCY: Securities and Exchange Commission.

ACTION: Notice of Meeting.

SUMMARY: The Securities and Exchange Commission Equity Market Structure Advisory Committee is providing notice that it will hold a public meeting on Tuesday, August 2, 2016, in Multi-Purpose Room LL–006 at the Commission's headquarters, 100 F Street NE., Washington, DC. The meeting will begin at 9:30 a.m. (EDT) and will be open to the public. The public portions of the meeting will be webcast on the Commission's Web site at *www.sec.gov*. Persons needing special accommodations to take part because of a disability should notify the contact person listed below. The public is invited to submit written statements to the Committee. The meeting will focus on updates and potential recommendations from the four subcommittees.

DATES: The public meeting will be held on Tuesday, August 2, 2016. Written statements should be received on or before July 27, 2016.

ADDRESSES: The meeting will be held at the Commission's headquarters, 100 F Street NE., Washington, DC. Written statements may be submitted by any of the following methods:

Electronic Statements

- Use the Commission's Internet submission form (*http://www.sec.gov/rules/other.shtml*); or
- Send an email message to *rule-comments@sec.gov*. Please include File Number 265–29 on the subject line; or

Paper Statements

- Send paper statements in triplicate to Brent J. Fields, Federal Advisory Committee Management Officer, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. 265–29. This file number should be included on the subject line if email is used. To help us process and review your statement more efficiently, please use only one method. The Commission will post all statements on the Commission's Internet Web site at SEC Web site at (*http://www.sec.gov/comments/265-29/265-29.shtml*).

Statements also will be available for Web site viewing and printing in the

---

[22] 15 U.S.C. 78s(b)(3)(a)(iii).

[23] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[24] 17 CFR 240.19b–4(f)(6)(iii).

[25] *See* BOX Rule 8140 and CBOE Rule 6.23C.

[26] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[27] 17 CFR 200.30–3(a)(12).

Commission's Public Reference Room, 100 F Street NE., Room 1580, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. All statements received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Arisa Tinaves Kettig, Special Counsel, at (202) 551–5676, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–7010.

SUPPLEMENTARY INFORMATION: In accordance with section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 1, and the regulations thereunder, Stephen Luparello, Designated Federal Officer of the Committee, has ordered publication of this notice.

Dated: July 13, 2016.

Brent J. Fields,

Committee Management Officer.

[FR Doc. 2016–16892 Filed 7–15–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78302; File No. SR–BatsBYX–2016–18]

Self-Regulatory Organizations; Bats BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to BYX Rule 11.26(a), Stating it Will Utilize IEX Market Data From the CQS/UQDF for Purposes of Order Handling, Routing, and Related Compliance Processes

July 12, 2016.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 5, 2016, Bats BYX Exchange, Inc. (the "Exchange" or "BYX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to update Rule 11.26(a) regarding the public disclosure of the sources of data that the Exchange utilizes when performing: (i) Order handling; (ii) order routing; and (iii) related compliance processes to reflect the operation of the Investors Exchange LLC ("IEX") as a registered national securities exchange[3] beginning on August 19, 2016.[4]

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On June 17, 2016, the Commission approved IEX's application to register as a national securities exchange.[5] As part of its transition to exchange status, IEX announced that it will commence a symbol-by-symbol roll-out on August 19, 2016, concluding on September 2, 2016.[6] The Exchange, therefore, proposes to update Rule 11.26(a) regarding the public disclosure of the sources of data that the Exchange utilizes when performing: (i) Order handling; (ii) order routing; and (iii) related compliance processes to reflect the operation of IEX as a registered national securities exchange beginning on August 19, 2016. Specifically, the Exchange proposes to amend Rule 11.26(a) to include IEX by stating it will utilize IEX market data from the CQS/UQDF for purposes of order handling, routing, and related compliance processes.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[7] in general, and furthers the objectives of section 6(b)(5) of the Act,[8] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that its proposal to update Exchange Rule 11.26(a) to include IEX will ensure that the rule correctly identifies and publicly states on a market-by-market basis all of the specific network processor and proprietary data feeds that the Exchange utilizes for the handling, routing, and execution of orders, and for performing the regulatory compliance checks related to each of those functions. The proposed rule change also removes impediments to and perfects the mechanism of a free and open market and protects investors and the public interest because it provides additional specificity, clarity and transparency.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes its proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes the proposal would enhance competition because including all of the exchanges enhances transparency and enables investors to better assess the quality of the Exchange's execution and routing services.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The

---

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 78101 (June 17, 2016), 81 FR 41141 (June 23, 2016) ("IEX Approval Order").

[4] *See* Letter from Brad Katsuyama, CEO, IEX, to IEX's Sell-Side and Buy-Side Partners, dated June 17, 2016 (*https://www.iextrading.com/*) (stating that IEX will commence a symbol-by-symbol roll-out on August 19, 2016, concluding on September 2, 2016).

[5] *See supra* note 3.

[6] *See supra* note 4.

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(5).

Exchange has not received any unsolicited written comments from Members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (A) Significantly affect the protection of investors or the public interest; (B) impose any significant burden on competition; and (C) by its terms, become operative for 30 days from the date on which it was filed or such shorter time as the Commission may designate it has become effective pursuant to section 19(b)(3)(A) of the Act[9] and paragraph (f)(6) of Rule 19b–4 thereunder,[10] the Exchange has designated this rule filing as non-controversial. The Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (1) Necessary or appropriate in the public interest; (2) for the protection of investors; or (3) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BatsBYX–2016–18 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BatsBYX–2016–18. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BatsBYX–2016–18 and should be submitted on or before August 8, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–16860 Filed 7–15–16; 8:45 am]

BILLING CODE 8011–01–P

---

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4.

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78294; File No. SR–C2–2016–005]

Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Order Approving a Proposed Rule Change Relating to Senior Management Authority

July 12, 2016.

I. Introduction

On May 23, 2016, C2 Options Exchange, Incorporated ("C2" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its Bylaws and Rules with respect to delegations of certain authorities to senior management. The proposed rule change was published for comment in the **Federal Register** on June 7, 2016.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposed Rule Change[4]

The Exchange proposes to updates references to senior management contained in its Bylaws and Rules to more accurately reflect roles and responsibilities within its current senior management structure. The Exchange notes that historically the C2 Chairman of the Board also held the title of Chief Executive Officer ("CEO"). Currently, however, the titles of Chairman of Board, CEO, and President are held by three different individuals. As such, the Exchange proposes to amend its rules relating to authorities delegated to senior management to more accurately reflect the current senior management structure.

A. Reference to Office of the Chairman

First, the Exchange proposes to eliminate the reference to the Office of the Chairman in Section 6.1 (Advisory Board) of the Exchange's Bylaws and replace it with a reference to "management."[5] Section 6.1 currently provides that the Board will establish an Advisory Board which shall advise the Board and the Office of the Chairman regarding matters of interest to Trading Permit Holders ("TPHs"). The Exchange notes that the Advisory Board's Charter provides that the Advisory Board shall advise the Board and "management" regarding matters of interest to TPHs.[6] In order to conform the language in Section 6.1 to the Advisory Board Charter, the Exchange proposes to replace the reference to the Office of the Chairman with management.[7]

---

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 77961 (June 1, 2016), 81 FR 36639 (June 7, 2016) ("Notice").

[4] A more detailed description of the proposed rule change appears in the Notice. *See id.*

[5] *See id.*

[6] *See id.*

[7] *See id.* Additionally, the title of the Bylaws will be changed to Fifth Amended and Restated Bylaws of C2. *See id.*

B. Title of Chapter 16 in the C2 Rule's Table of Contents

Second, the Exchange proposes to amend the title of Chapter 16 in the C2 Rule's Table of Contents.[8] Currently, the title of Chapter 16 is "Summary Suspension by Chairman of the Board or Vice Chairman of the Board." The Exchange notes that rules contained within CBOE Chapter XVI are incorporated into C2's Chapter 16.[9] CBOE Chapter XVI currently provides that the Chairman of the Board or President may summarily suspend a TPH and limit or prohibit any person with respect to access to services offered by the Exchange.[10] The Exchange notes however, that CBOE is concurrently proposing to amend its rules to provide that the CEO (rather than Chairman) or President may summarily suspend a TPH.[11] Additionally, the Exchange notes that it no longer maintains the role of Vice Chairman of the Board.[12] As such, the Exchange proposes to amend the Chapter 16 title to simply state "Summary Suspension" to avoid confusion and maintain clarity in the rules.

C. References to Chairman of the Board

Last, the Exchange proposes to amend Rule 6.33 (Authority to Take Action Under Emergency Conditions) to eliminate the reference to "Chairman of the Board" and replace it with "Chief Executive Officer." Rule 6.33 currently provides that the Chairman of the Board, the President, or such other person or persons as may be designated by the Board shall have the power to halt or suspend trading in some or all securities traded on the Exchange, to close some or all Exchange facilities, to determine the duration of any such halt, suspension or closing, to take one or more of the actions permitted to be taken by any person or body of the Exchange under Exchange rules, or to take any other action deemed to be necessary or appropriate for the maintenance of a fair and orderly market or the protection of investors, or otherwise in the public interest, due to emergency conditions or extraordinary circumstances. The Exchange notes that the CEO's responsibility is that of general charge and supervision of the business of the Corporation,[13] whereas the Chairman of the Board's responsibility is that of the presiding officer at all meetings of the Board and stockholders, as well as of other powers and duties as are delegated by the Board.[14] The Exchange believes the responsibilities currently delegated to the Chairman of the Board under Rule 6.33 pertain to the general charge and supervision of the Exchange's business and therefore fall within the scope of the CEO's stated responsibilities, instead of the Chairman's.

III. Discussion and Commission Findings

The Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[15] Specifically, the Commission believes the proposed rule change is consistent with the Section 6(b)(5)[16] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

In particular, the Commission believes the proposed rule changes will remove impediments to, and perfect the mechanism of a free and open market and a national market system, and, in general, will protect investors and the public interest by updating the delegation of authority to senior management under certain of the Exchange's Rules, which should facilitate the Exchange's ability to operate and carry out its self-regulatory responsibilities. In particular, the proposed rule changes to eliminate the reference to the Office of the Chairman and replace it with a reference to management in Section 6.1 of the Exchange's Bylaws will alleviate confusion regarding the responsibilities of the Advisory Board. The Exchange notes that the Advisory Board's Charter provides that the Advisory Board shall advise the Board and "management" regarding matters of interest to TPHs.[17] Replacing the term Office of the Chairman with the term management will ensure that the Exchange's Bylaws conform to the Advisory Board Charter, thereby reducing uncertainty about the responsibilities of the Advisory Board.

The Exchange's proposal to rename the title of Chapter 16 will alleviate confusion as that Chapter incorporates by reference CBOE's Chapter XVI rules that are subject to a proposed rule change to remove references to the Chairman of the Board and replace them with CEO. Moreover, the proposed rule change will eliminate a reference to the Vice Chairman, a title that C2 no longer uses.

Finally, the Exchange's proposal to amend Rule 6.33 to replace the references to the Chairman of the Board with the CEO should update and clarify which Exchange official is vested with the authorities established in that rule. The Exchange represents that while historically the Chairman of the Board also held the title of CEO, currently, the two titles are held by different individuals.[18] The Exchange Bylaws confer different responsibilities on the Chairman of the Board and the CEO.[19] The proposed rule change will ensure that the authority delegated pursuant to Rule 6.33 is consistent with the roles and responsibilities established in the Bylaws.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[20] that the proposed rule change (SR–C2–2016–005) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–16854 Filed 7–15–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78303; File No. SR–BatsBZX–2016–37]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to BZX Rule 11.26(a), Stating it Will Utilize IEX Market Data From the CQS/UQDF for Purposes of Order Handling, Routing, and Related Compliance Processes

July 12, 2016.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the

---

[8] *See id.*

[9] *See id.*

[10] *See* CBOE Rule 16.1.

[11] *See* Securities Exchange Act Release No. 77962 (June 1, 2016), 81 FR 36641 (June 7, 2016) (SR–CBOE–2016–047).

[12] *See* Notice, *supra* note 3, at 36640.

[13] *See* Section 5.2 of the C2 Bylaws.

[14] *See* Section 3.6 of the C2 Bylaws.

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

[17] *See* Notice, *supra* note 3, at 36639.

[18] *See id.*

[19] *See id.* at 36640.

[20] 15 U.S.C. 78s(b)(2).

[21] 17 CFR 200.30–3(a)(12).

"Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 5, 2016, Bats BZX Exchange, Inc. (the "Exchange" or "BZX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to update Rule 11.26(a) regarding the public disclosure of the sources of data that the Exchange utilizes when performing: (i) Order handling; (ii) order routing; and (iii) related compliance processes to reflect the operation of the Investors Exchange LLC ("IEX") as a registered national securities exchange[3] beginning on August 19, 2016.[4]

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On June 17, 2016, the Commission approved IEX's application to register as a national securities exchange.[5] As part of its transition to exchange status, IEX announced that it will commence a symbol-by-symbol roll-out on August 19, 2016, concluding on September 2, 2016.[6] The Exchange, therefore, proposes to update Rule 11.26(a) regarding the public disclosure of the sources of data that the Exchange utilizes when performing: (i) Order handling; (ii) order routing; and (iii) related compliance processes to reflect the operation of IEX as a registered national securities exchange beginning on August 19, 2016. Specifically, the Exchange proposes to amend Rule 11.26(a) to include IEX by stating it will utilize IEX market data from the CQS/UQDF for purposes of order handling, routing, and related compliance processes.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[7] in general, and furthers the objectives of section 6(b)(5) of the Act,[8] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that its proposal to update Exchange Rule 11.26(a) to include IEX will ensure that the rule correctly identifies and publicly states on a market-by-market basis all of the specific network processor and proprietary data feeds that the Exchange utilizes for the handling, routing, and execution of orders, and for performing the regulatory compliance checks related to each of those functions. The proposed rule change also removes impediments to and perfects the mechanism of a free and open market and protects investors and the public interest because it provides additional specificity, clarity and transparency.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes its proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes the proposal would enhance competition because including all of the exchanges enhances transparency and enables investors to better assess the quality of the Exchange's execution and routing services.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (A) Significantly affect the protection of investors or the public interest; (B) impose any significant burden on competition; and (C) by its terms, become operative for 30 days from the date on which it was filed or such shorter time as the Commission may designate it has become effective pursuant to section 19(b)(3)(A) of the Act[9] and paragraph (f)(6) of Rule 19b–4 thereunder,[10] the Exchange has designated this rule filing as non-controversial. The Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (1) Necessary or appropriate in the public interest; (2) for the protection of investors; or (3) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

---

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 78101 (June 17, 2016), 81 FR 41141 (June 23, 2016) ("IEX Approval Order").

[4] *See* Letter from Brad Katsuyama, CEO, IEX, to IEX's Sell-Side and Buy-Side Partners, dated June 17, 2016 (*https://www.iextrading.com/*) (stating that IEX will commence a symbol-by-symbol roll-out on August 19, 2016, concluding on September 2, 2016).

[5] *See supra* note 3.

[6] *See supra* note 4.

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4.

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BatsBZX–2016–37 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BatsBZX–2016–37. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BatsBZX–2016–37 and should be submitted on or before August 8, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–16861 Filed 7–15–16; 8:45 am]

BILLING CODE 8011–01–P

---

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78297; File No. SR–NYSEMKT–2016–67]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Change To Modify the NYSE Amex Options Fee Schedule Effective July 1, 2016

July 12, 2016.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 1, 2016, NYSE MKT LLC (the "Exchange" or "NYSE MKT") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify the NYSE Amex Options Fee Schedule ("Fee Schedule"). The Exchange proposes to implement the fee change effective July 1, 2016. The proposed change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend section I. E. of the Fee Schedule[3] to adjust qualification levels for certain credit tiers and modify how certain volumes are weighted. The Exchange proposes to implement these changes effective on July 1, 2016.

Section I.E. of the Fee Schedule describes the Exchange's ACE Program, which features five tiers (each a "Tier") expressed as a percentage of total industry Customer equity and Exchange Traded Fund ("ETF") option average daily volume[4] and provides two alternative methods through which Order Flow Providers (each an "OFP") may receive per contract credits for Electronic Customer volume that the OFP, as agent, submits to the Exchange.[5] The Exchange proposes to adjust the Customer Electronic ADV volume thresholds of the ACE Program by raising the qualification level for two of the five Tiers as well as to modify how volumes are calculated for all five of the Tiers under both methods.

Currently, to qualify for Tier 2 on Customer Electronic ADV, the Customer Electronic ADV entered by an OFP must exceed 0.60% of Industry Customer Equity and ETF Options ADV ("ICADV"). The Exchange proposes to raise the qualification level for Tier 2 on Customer Electronic ADV to be greater than 0.75% of ICADV and, for consistency, to likewise increase Tier 1, for which there are no credits, to a maximum volume threshold of 0.75% of ICADV. Currently, to qualify for Tier 3 on Customer Electronic ADV, the Customer Electronic ADV entered by an OFP must exceed 0.80% of ICADV. The Exchange proposes to raise the qualification level for Tier 3 to be greater than 1.00% of ICADV. The Exchange does not proposes [sic] any changes to the credits associated with each Tier. Nor does the Exchange propose any changes to the alternative Tier Qualifications based on Total Electronic ADV.

---

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Fee Schedule, section I.E. (Amex Customer Engagement ("ACE") Program—Standard Options), *available here, https://www.nyse.com/publicdocs/nyse/markets/amex-options/NYSE_Amex_Options_Fee_Schedule.pdf.*

[4] Total industry Customer equity and ETF option volume is comprised of those equity and ETF contracts that clear in the Customer account type at OCC and does not include contracts that clear in either the Firm or Market Maker account type at OCC or contracts overlying a security other than an equity or ETF security. *See* OCC Monthly Statistics Reports, *available here, http://www.theocc.com/webapps/monthly-volume-reports.*

[5] The first method for determining whether an OFP should receive credit is by calculating, on a monthly basis, the average daily Customer contract volume an OFP executes Electronically on the Exchange as a percentage of total average daily industry Customer equity and ETF options volume. The second method for determining whether an OFP should receive credit is by calculating, on a monthly basis, the average daily contract volume an OFP executes Electronically in all participant types (*i.e.,* Customer, Firm, Broker-Dealer, NYSE Amex Options Market Maker, Non-NYSE Amex Options Market Maker, and Professional Customer) on the Exchange, as a percentage of total average daily industry Customer equity and ETF option volume, with the further requirement that a specified percentage of the minimum volume required to qualify for the Tier must be Customer volume. *See supra* n. 3.

The Exchange periodically re-evaluates the competitive landscape and, given the rebate the Exchange currently provides to OFPs achieving Tiers 2 and 3, the Exchange believes it would be appropriate to increase certain of the volume thresholds associated with those Tiers. For example, for OFPs that achieve Tier 2 on Customer Electronic ADV, the Exchange currently provides an $0.18 per contract rebate based on a volume threshold of greater than 0.60% of ICADV. While another competing options exchange—the Chicago Board Options Exchange Inc. (''CBOE'')—that offers a program similar to ACE provides a $0.15 per contract credit for simple options transactions at its highest tier, with a volume requirement of greater than 3.00% of National Customer Volume in All Underlying Symbols, with certain exclusions.[6] Thus, the Exchange is providing a greater (credit) benefit than some of its competitors for a lower (volume) ask. Given the level of the benefit the Exchange is offering at Tiers 2 and 3, it believes the proposed upward adjustment to certain of the volume thresholds is more reflective of the competitive environment such that the volume requirements are more commensurate with the benefit offered.

To mitigate the increased qualification standards for ACE Tiers 2 and 3 based on an OFP's Customer volume transacted Electronically as a percentage of total industry Customer equity and ETF options, and to encourage additional order flow to the Exchange such that more OFPs qualify for each of the Tier [sic], the Exchange proposes to apply a proposed volume multiplier to certain volumes, which would increase the volumes towards the calculation of the Customer ADV on all ACE Tiers. Specifically, the Exchange proposes to amend the ACE Program to provide that ''[i]n calculating an OFP's Electronic volume, each Customer order that takes liquidity will be weighted as 50% greater (*i.e.,* 1.5 times the contract volume) for determining Customer Electronic ADV and Total Electronic ADV.[7] The Exchange believes that applying a higher weighting to Customer orders that take liquidity should encourage OFPs to direct more liquidity taking orders to the Exchange. In addition, with regard to the proposed increases to Tiers 2 and 3, the Exchange believes the proposed volume multiplier would provide additional incentive to OFP's that are currently achieving—or close to achieving—Tiers 2 and 3 to send additional order flow to the Exchange. While the Exchange is making it more difficult to achieve these tiers, qualifying OFPs will receive an additional benefit as a result.

Further, the Exchange believes this increase in order flow should incentivize market makers that may be rewarded with additional trading opportunities to route to lit markets and post better size, which would result in better markets (tighter market maker quotes) on the Exchange.

The proposed modifications to the ACE Program are designed to encourage OFPs to direct additional order flow to the Exchange, which additional volume and liquidity would benefit all Exchange participants through increased opportunities to trade as well as enhancing price discovery.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[8] in general, and furthers the objectives of sections 6(b)(4) and (5) of the Act,[9] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed amendments to the ACE Program are reasonable, equitable and not unfairly discriminatory because the proposed changes are designed to enhance the competitiveness of the Exchange while continuing to encourage additional volumes be directed to the Exchange.[10] Specifically, given the level of the benefit the Exchange is offering at Tiers 2 and 3, it believes the proposed upward adjustment to certain of the volume thresholds is more reflective of the competitive environment such that the volume requirements are more commensurate with the benefit offered.

The Exchange believes that applying the proposed volume multiplier to certain volumes is reasonable, equitable and not unfairly discriminatory as it would mitigate the proposed increases to the volume thresholds for achieving Tiers 2 and 3, and would increase the volumes towards the calculation of the Customer ADV on all ACE Tiers, which should encourage OFPs to direct more liquidity taking orders to the Exchange. Further, the Exchange believes this increase in order flow should incentivize market makers that may be rewarded with additional trading opportunities to route to lit markets and post better size, which would result in better markets (tighter market maker quotes) on the Exchange.

The Exchange believes that these proposed changes to the ACE Program, taken together, would attract more volume and liquidity to the Exchange–including taker liquidity, which would benefit all market participants by providing more trading opportunities and tighter spreads, even to those market participants that do not participate in the ACE Program or have not yet been able to qualify for any of the Tiers. With regard to the proposed increases to Tiers 2 and 3, the Exchange believes the proposed volume multiplier would provide additional incentive to OFP's that are currently achieving—or close to achieving—Tiers 2 and 3 to send additional order flow to the Exchange. While the Exchange is making it more difficult to achieve these tiers, qualifying OFPs will receive an additional benefit as a result.

Finally, the Exchange believes the proposed changes are consistent with the Act because, to the extent the modifications permit the Exchange to continue to attract greater volume and liquidity, the proposed changes would improve the Exchange's overall competitiveness and strengthen its market quality for all market participants.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

---

[6] *See, e.g.,* CBOE fee schedule, *available here, http://www.cboe.com/publish/feeschedule/CBOEFeeSchedule.pdf,* at p. 4, Volume Incentive Program (featuring four tiers based on Percentage Thresholds of National Customer Volume in All Underlying Symbols (with certain exclusions) and, for example, providing that tier 2 requires monthly volumes of at least 0.75% to 1.80% for a $0.12 credit on simple options transactions and tier 3 requires monthly volumes of at least 1.80% to 3.00% for a $0.10 credit on simple options transactions).

[7] *See* proposed Fee Schedule, section I. E. (Amex Customer Engagement (''ACE'') Program—Standard Options).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4) and (5).

[10] *See supra* n. 6.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with section 6(b)(8) of the Act,[11] the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed amendments to the ACE Program are pro-competitive as the proposed increased qualifications, which make the tiers more competitive,[12] together with the enhanced weighting factor may encourage OFPs to direct Customer order flow, particularly taking liquidity, to the Exchange and any resulting increase in volume and liquidity to the Exchange would benefit all Exchange participants through increased opportunities to trade as well as enhancing price discovery, even to those market participants that do not participate in the ACE Program or have not yet been able to qualify for any of the tiers.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to section 19(b)(3)(A)[13] of the Act and subparagraph (f)(2) of Rule 19b–4[14] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under section 19(b)(2)(B)[15] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEMKT–2016–67 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2016–67. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2016–67, and should be submitted on or before August 8, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–16856 Filed 7–15–16; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14756 and #14757]

Connecticut Disaster #CT–00038

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of CONNECTICUT dated 07/08/2016.

Incident: Apartment Building Fire.

Incident Period: 06/06/2016.

Effective Date: 07/08/2016.

Physical Loan Application Deadline Date: 09/06/2016.

Economic Injury (EIDL) Loan Application Deadline Date: 04/10/2017.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Hartford.
Contiguous Counties:
Connecticut: Litchfield, Middlesex, New Haven, New London, Tolland.
Massachusetts: Hampden.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.250
Homeowners Without Credit Available Elsewhere	1.625
Businesses With Credit Available Elsewhere	6.250

---

[11] 15 U.S.C. 78f(b)(8).

[12] *See supra* n. 6.

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(2).

[15] 15 U.S.C. 78s(b)(2)(B).

[16] 17 CFR 200.30–3(a)(12).

	Percent
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 14756 5 and for economic injury is 14757 0.

The States which received an EIDL Declaration # are: Connecticut, Massachusetts.

(Catalog of Federal Domestic Assistance Number 59008)

Dated: July 8, 2016.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2016–16818 Filed 7–15–16; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 14763 and # 14764]

Oklahoma Disaster # OK–00104

AGENCY: U.S. Small Business Administration.

ACTION: Notice

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Oklahoma dated 07/08/2016

Incident: Severe storms, tornadoes, straight-line winds and flooding

Incident Period: 06/11/2016 Through 06/19/2016

Effective Date: 07/08/2016

Physical Loan Application Deadline Date: 09/06/2016

Economic Injury (EIDL) Loan Application Deadline Date: 04/10/2017

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Comanche

Contiguous Counties:

Oklahoma: Caddo, Cotton, Grady, Kiowa, Stephens, Tillman

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.250
Homeowners Without Credit Available Elsewhere	1.625
Businesses With Credit Available Elsewhere	6.250
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 14763 B and for economic injury is 14764 0.

The State which received an EIDL Declaration # is Oklahoma

(Catalog of Federal Domestic Assistance Number 59008)

Dated: July 8, 2016.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2016–16825 Filed 7–15–16; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14765 and #14766]

TEXAS Disaster #TX–00474

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Texas (FEMA–4272–DR), dated 07/08/2016.

Incident: Severe Storms and Flooding.

Incident Period: 05/26/2016 through 06/24/2016.

Effective Date: 07/08/2016.

Physical Loan Application Deadline Date: 09/06/2016.

Economic Injury (EIDL) Loan Application Deadline Date: 04/10/2017.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 07/08/2016, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Bandera, Bastrop, Brown, Caldwell, Eastland, Fayette, Fort Bend, Grimes, Hood, Houston, Jasper, Kleberg, Polk, San Jacinto, Washington.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-profit organizations with credit available elsewhere	2.625
Non-profit organizations without credit available elsewhere	2.625
For Economic Injury:	
Non-profit organizations without credit available elsewhere	2.625

The number assigned to this disaster for physical damage is 147656 and for economic injury is 147666.

(Catalog of Federal Domestic Assistance Number 59008)

Lisa Lopez-Suarez,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2016–16826 Filed 7–15–16; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA–2016–0032]

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov*

(SSA) Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov*

Or you may submit your comments online through *www.regulations.gov,* referencing Docket ID Number [SSA–2016–0032].

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than September 16, 2016. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. Certificate of Coverage Request—20 CFR 404.1913—0960—0554. The United States holds agreements with 27 foreign countries to eliminate double Social Security coverage and taxation where, except for the provisions of the agreement, a worker would be subject to coverage and taxes in both countries. These agreements contain rules for determining the country under whose laws the worker's period of employment is covered, and to which country the worker will pay taxes. The agreements further dictate that, upon the request of the worker or employer, the country under whose system the period of work is covered will issue a certificate of coverage. The certificate serves as proof of exemption from coverage and taxation under the system of the other country. The information we collect assists us in determining a worker's coverage and in issuing a U.S. certificate of coverage as appropriate. Per our agreements, we ask a set number of questions to the workers and employers prior to issuing a certificate of coverage; however, our agreements with Denmark, Netherlands, Norway, and Sweden require us to ask more questions in those countries. Respondents are workers and employers wishing to establish exemption from foreign Social Security taxes.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Requests via Letter—Individuals (minus Denmark, Netherlands, Norway, Poland & Sweden)	6,272	1	40	4,181
Requests via Internet—Individuals (minus Denmark, Netherlands, Norway, Poland & Sweden)	9,407	1	40	6,271
Requests via Letter—Individuals in Denmark, Netherlands, Norway, & Sweden	280	1	44	205
Requests via Letter—Individuals in Poland	16	1	41	11
Requests via Internet—Individuals in Denmark, Netherlands, Norway, & Sweden	421	1	44	309
Requests via Internet—Individuals in Poland	23	1	41	16
Requests via Letter—Employers (minus Denmark, Netherlands, Norway, Poland & Sweden)	25,087	1	40	16,725
Requests via Internet—Employers (minus Denmark, Netherlands, Norway, Poland, & Sweden)	37,632	1	40	25,088
Requests via Letter—Employers in Denmark, Netherlands, Norway, & Sweden	1,121	1	44	822
Requests via Letter—Employers in Poland	62	1	41	42
Requests via Internet—Employers in Denmark, Netherlands, Norway, & Sweden	1,680	1	44	1,232
Requests via Internet—Employers in Poland	93	1	41	64
Totals	82,094			54,966

2. Disability Report—Child—20 CFR 416.912—0960–0577. Sections 223(d)(5)(A) and 1631(e)(1) of the Social Security Act require Supplemental Security Income (SSI) claimants to furnish medical and other evidence to prove they are disabled. SSA uses Form SSA–3820 to collect various types of information about a child's condition from treating sources or other medical sources of evidence. The State Disability Determination Services evaluators use the information from Form SSA–3820 to develop medical and school evidence, and to assess the alleged disability. The information, together with medical evidence, forms the evidentiary basis upon which SSA makes its initial disability evaluation. The respondents are claimants seeking SSI childhood disability payments.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–3820 (Paper Form)	279,002	1	90	418,503
Electronic Disability Collection System	1,000	1	120	2,000
i3820 (Internet)	119,464	1	120	238,928

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Totals	399,466			659,431

3. Request for Accommodation in Communication Method—0960–0777. SSA allows disabled or impaired Social Security applicants, beneficiaries, recipients, and representative payees to choose one of seven alternative methods of communication they want SSA to use when we send them benefit notices and other related communications. The seven alternative methods we offer are: (1) Standard print notice by first-class mail; (2) standard print mail with a follow-up telephone call; (3) certified mail; (4) Braille; (5) Microsoft Word file on data CD; (6) large print (18-point font); or (7) audio CD. However, respondents who want to receive notices from SSA through a communication method other than the seven methods listed above must explain their request to us. Those respondents use Form SSA–9000 to: (1) Describe the type of accommodation they want, (2) disclose their condition necessitating the need for a different type of accommodation, and (3) explain why none of the seven methods described above are sufficient for their needs. SSA uses Form SSA–9000 to determine, based on applicable law and regulation, whether to grant the respondents' requests for an accommodation based on their impairment or disability. SSA collects this information electronically through either an in-person interview or a telephone interview during which the SSA employee keys in the information on our iAccommodate Intranet screens. The respondents are disabled or impaired Social Security applicants, beneficiaries, recipients, and representative payees who ask SSA to send notices and other communications in an alternative method besides the seven modalities we currently offer.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–9000/iAccommodate	5,000	1	20	1,667

II. SSA submitted the information collections below to OMB for clearance. Your comments regarding the information collections would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than August 17, 2016. Individuals can obtain copies of the OMB clearance package by writing to *OR.Reports.Clearance@ssa.gov.*

Work Incentives Planning and Assistance Program—0960–0629. As part of SSA's strategy to assist Social Security Disability Insurance (SSDI) beneficiaries and SSI recipients who wish to return to work and achieve self-sufficiency, SSA established the Work Incentives Planning and Assistance (WIPA) program. This community based, work incentive, planning and assistance project collects identifying claimant information via project sites and community work incentives coordinators (CWIC). SSA uses this information to ensure proper management of the project, with particular emphasis on administration, budgeting, and training. In addition, project sites and CWIC's collect data from SSDI beneficiaries and SSI recipients on background employment, training, benefits, and work incentives. SSA is interested in identifying SSDI beneficiary and SSI recipient outcomes under the WIPA program, to determine the extent to which beneficiaries with disabilities and SSI recipients achieve their employment, financial, and healthcare goals. SSA will also use the data in its analysis and future planning for SSDI and SSI programs. Respondents are SSDI beneficiaries, SSI recipients, community project sites, and employment advisors.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Small Site (Under 150 beneficiaries served)	4,800	1	20	1,600
Medium Site (150–599 beneficiaries served)	7,500	1	20	2,500
Large Site (600 or more beneficiaries served)	17,700	1	20	5,900
Total Sites	30,000			10,000
SSDI & SSI Beneficiaries	30,000	1	25	12,500
Help Line	30,000	1	5	2,500

Dated: July 13, 2016.

Naomi R. Sipple,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2016–16865 Filed 7–15–16; 8:45 am]

BILLING CODE 4191–02–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

African Growth and Opportunity Act (AGOA): Request for Public Comments on Annual Review of Country Eligibility for Benefits Under AGOA in Calendar Year 2017; Scheduling of Hearing, and Request for Public Comments

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and request for comments; notice of hearing.

SUMMARY: This notice announces the initiation of the annual review of the eligibility of the sub-Saharan African countries to receive the benefits of the African Growth and Opportunity Act (AGOA). The AGOA Implementation Subcommittee of the Trade Policy Staff Committee (Subcommittee) is developing recommendations for the President on AGOA country eligibility for calendar year 2017. The Subcommittee is requesting written public comments for this review and will conduct a public hearing on this matter. The Subcommittee will consider the written comments, written testimony, and oral testimony in developing recommendations for the President. Comments received related to the child labor criteria may also be considered by the Secretary of Labor in the preparation of the Department of Labor's report on child labor as required under section 504 of the Trade Act of 1974. This notice identifies the eligibility criteria under AGOA that must be considered under AGOA, and lists those sub-Saharan African countries that are currently eligible for the benefits of AGOA and those that were ineligible for such benefits in 2016.

DATES:

August 5, 2016: Deadline for filing requests to appear at the August 22, 2016 public hearing, and for filing pre-hearing briefs, statements, or comments on sub-Saharan African countries' AGOA eligibility.

August 22, 2016: AGOA Implementation Subcommittee of the TPSC will convene a public hearing on AGOA country eligibility.

September 2, 2016: Deadline for filing post-hearing briefs, statements, or comments on this matter.

ADDRESSES: USTR strongly prefers electronic submissions made at *www.regulations.gov,* docket number USTR–2016–0006. See "Requirements for Submission," below. If you are unable to make a submission at *www.regulations.gov,* please contact Yvonne Jamison, Trade Policy Staff Committee, at (202) 395–3475 to make other arrangements.

FOR FURTHER INFORMATION CONTACT: For procedural questions, please contact Yvonne Jamison, Office of the U.S. Trade Representative at (202) 395–3475. All other questions should be directed to Constance Hamilton, Deputy Assistant U.S. Trade Representative for African Affairs, Office of the U.S. Trade Representative, at (202) 395–9514.

SUPPLEMENTARY INFORMATION: AGOA (Title I of the Trade and Development Act of 2000, Public Law 106–200) (19 U.S.C. 2466a *et seq.*), as amended, authorizes the President to designate sub-Saharan African countries as beneficiaries eligible for duty-free treatment for certain additional products not included for duty-free treatment under the Generalized System of Preferences (GSP) (Title V of the Trade Act of 1974 (19 U.S.C. 2461 *et seq.*) (the "1974 Act")), as well as for the preferential treatment for certain textile and apparel articles.

The President may designate a country as a beneficiary sub-Saharan African country eligible for these benefits of AGOA if he determines that the country meets the eligibility criteria set forth in: (1) Section 104 of AGOA (19 U.S.C. 3703); and (2) section 502 of the 1974 Act (19 U.S.C. 2462).

Section 104 of AGOA includes requirements that the country has established or is making continual progress toward establishing, *inter alia:* A market-based economy; the rule of law, political pluralism, and the right to due process; the elimination of barriers to U.S. trade and investment; economic policies to reduce poverty; a system to combat corruption and bribery; and the protection of internationally recognized worker rights. In addition, the country may not engage in activities that undermine U.S. national security or foreign policy interests or engage in gross violations of internationally recognized human rights.

Section 502 of the 1974 Act provides for country eligibility criteria under GSP, which is generally reviewed as a result of a petition process. For more information on the GSP criteria and review process, see section 502 of the 1974 Act and the annual **Federal Register** notice initiating the GSP product and country practices review.

Section 506A of the 1974 Act provides that the President shall monitor and review annually the progress of each sub-Saharan African country in meeting the foregoing eligibility criteria in order to determine whether each beneficiary sub-Saharan African country should continue to be eligible, and whether each sub-Saharan African country that is currently not a beneficiary, should be designated as such a country. If the President determines that a beneficiary sub-Saharan African country is not making continual progress in meeting the eligibility requirements, he must terminate the designation of the country as a beneficiary sub-Saharan African country. The President may also withdraw, suspend, or limit the application of duty-free treatment with respect to specific articles from a country if he determines that it would be more effective in promoting compliance with AGOA-eligibility requirements than terminating the designation of the country as a beneficiary sub-Saharan African country.

For 2016, 38 countries were designated as beneficiary sub-Saharan African countries. These countries, as well as the countries currently designated as ineligible, are listed below. The Subcommittee is seeking public comments in connection with the annual review of sub-Saharan African countries' eligibility for AGOA's benefits. The Subcommittee will consider any such comments in developing recommendations to the President related to this review. Comments related to the child labor criteria may also be considered by the Secretary of Labor in making the findings required under section 504 of the 1974 Act.

The following sub-Saharan African countries were designated as beneficiary sub-Saharan African countries in 2016:

Angola
Republic of Benin
Republic of Botswana
Burkina Faso
Republic of Cabo Verde
Republic of Cameroon
Republic of Chad
Federal Islamic Republic of Comoros
Republic of Congo
Republic of Cote d'Ivoire
Republic of Djibouti
Ethiopia
Gabonese Republic
Republic of Ghana
Republic of Guinea
Republic of Guinea-Bissau
Republic of Kenya
Kingdom of Lesotho
Republic of Liberia
Republic of Madagascar
Republic of Malawi
Republic of Mali
Islamic Republic of Mauritania
Republic of Mauritius
Republic of Mozambique
Republic of Namibia

Republic of Niger
Federal Republic of Nigeria
Republic of Rwanda
Sao Tome & Principe
Republic of Senegal
Republic of Seychelles
Republic of Sierra Leone
Republic of South Africa
United Republic of Tanzania
Republic of Togo
Republic of Uganda
Republic of Zambia

The following sub-Saharan African countries were not designated as beneficiary sub-Saharan African countries in 2016:

Burundi
Central African Republic
Democratic Republic of Congo
The Gambia
Republic of Equatorial Guinea
State of Eritrea
Somalia
Republic of South Sudan
Republic of Sudan
Kingdom of Swaziland
Republic of Zimbabwe

Notice of Public Hearing: In addition to written comments from the public on the matters listed above, the Subcommittee of the TPSC will convene a public hearing at 10:00 a.m. on Monday, August 22, 2016, to receive testimony related to sub-Saharan African countries' eligibility for AGOA's benefits. Requests to present oral testimony at the hearing and pre-hearing briefs, statements, or comments must be received by noon August 5, 2016.

The hearing will be held at 1724 F Street NW., Washington, DC 20508 and will be open to the public and to the press. A transcript of the hearing will be made available on *www.regulations.gov* within approximately two weeks of the hearing.

All interested parties wishing to present oral testimony at the hearing must submit, following the "Requirements for Submissions" set out below, the name, address, telephone number, and email address, if available, of the witness(es) representing their organization by noon, August 5, 2016. The intent to testify notification must be made in the "Type Comment" field under docket number USTR–2016–0006 on the *regulations.gov* Web site and should include the name, address, and telephone number of the person presenting the testimony. A summary of the testimony should be attached by using the "Upload File" field. The name of the file should also include who will be presenting the testimony. Remarks at the hearing should be limited to no more than five minutes to allow for possible questions from the TPSC. All documents should be submitted in accordance with the instructions below.

Requirements For Submissions: Persons submitting a notification of intent to testify and/or written comments must do so electronically by noon, Friday, August 5, 2016, using *www.regulations.gov,* docket number USTR–2016–0006. Instructions for submitting business confidential versions are provided below. Hand-delivered submissions will not be accepted. All written materials must be submitted in English to the Chairman of the AGOA Implementation Subcommittee of the TPSC.

Business Confidential Submissions: An interested party requesting that information contained in a submission be treated as business confidential information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such. The submission must be marked "BUSINESS CONFIDENTIAL" at the top and bottom of the cover page and each succeeding page, and the submission should indicate, via brackets, the specific information that is confidential. Additionally, "Business Confidential" must be included in the "Type Comment" field. For any submission containing business confidential information, a non-confidential version must be submitted separately (*i.e.,* not as part of the same submission with the confidential version), indicating where confidential information has been redacted. The non-confidential version will be placed in the docket and open to public inspection.

Public Viewing of Review Submissions: Submissions in response to this notice, except for information granted "business confidential" status under 15 CFR 2003.6, will be available for public viewing pursuant to 15 CFR 2007.6 at *www.regulations.gov* upon completion of processing. Such submissions may be viewed by entering the country-specific docket number in the search field at *www.regulations.gov.*

Edward Gresser,

Chair, Trade Policy Staff Committee.

[FR Doc. 2016–16957 Filed 7–15–16; 8:45 am]

BILLING CODE 3290–F6–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent of waiver with respect to land; General Mitchell International Airport, Milwaukee, Wisconsin.

SUMMARY: The FAA is considering a proposal to change 0.059 acres of airport land from aeronautical use to non-aeronautical use and to authorize the disposal of airport property located at General Mitchell International Airport, Milwaukee, Wisconsin. The aforementioned land is no longer needed for aeronautical use.

The property is located on the east side of Howell Avenue immediately south of Layton Avenue. The property is a 12 foot wide portion of airport property which has long been used as roadway setback, and is no longer needed for aeronautical purposes. Upon release, the land will be disposed of for sidewalk/roadway Right-of-Way.

DATES: Comments must be received on or before August 17, 2016.

ADDRESSES: Documents are available for review by appointment at the FAA Chicago Airports District Office, Michael Ferry, Program Manager, 2300 East Devon Avenue, Des Plaines, IL 60018, Telephone: (847) 294–8251/ *Michael.Ferry@faa.gov;* or at the General Mitchell International Airport, Timothy Karaskiewicz, 5300 South Howell Avenue, Milwaukee, WI 53207, 414–747–5712.

Written comments on the Sponsor's request must be delivered or mailed to: Michael Ferry, Program Manager, Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon Avenue, Des Plaines, IL 60018, Telephone Number: (847) 294–8251/FAX Number: (847) 294–7046.

FOR FURTHER INFORMATION CONTACT: Michael Ferry, Program Manager, Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon Avenue, Des Plaines, IL 60018. Telephone Number: (847) 294–8251/*Michael.Ferry@faa.gov*/FAX Number: (847) 294–7046.

SUPPLEMENTARY INFORMATION:

In accordance with section 47107(h) of Title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

The property is a 12 foot wide portion of airport property and has long been used for road frontage and not needed for aeronautical purpose. It cannot be used for airport access given its close proximity to the intersection of Layton and Howell avenues. The land was acquired as airport property from a private party in 1941. The airport plans to dispose of the property upon release.

The disposition of proceeds from the sale of the airport property will be in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999 (64 FR 7696).

This notice announces that the FAA is considering the release of the subject airport property at the General Mitchell International Airport, Milwaukee, Wisconsin, from federal land covenants, subject to a reservation for continuing right of flight as well as restrictions on the released property as required in FAA Order 5190.6B section 22.16. Approval does not constitute a commitment by the FAA to financially assist in the disposal of the subject airport property nor a determination of eligibility for grant-in-aid funding from the FAA.

Legal Description

Description of a portion of Lot 1 in Otte's Subdivision, a recorded subdivision, in the Northwest ¼ of Section 28, Township 6 North, Range 22 East, described as follows:

Commencing at the point of intersection of the present southerly line of East Layton Avenue and the present east line of South Howell Avenue, said point lying 195.00 feet south of, as measured normal to, the north line of said ¼ section and 60.00 feet east of, as measured normal to, the west line of said ¼ section; thence Southerly, along said present east line, 245.00 feet to a point; thence Northeasterly to a point lying 12.00 feet east of, as measured normal to, said present east line and 365.00 feet south of, as measured normal to, the north line of said ¼ section; thence Northerly, parallel to said present east line, to a point in the present southerly line of East Layton Avenue; thence Southwesterly, along said present southerly line, to the point of commencement.

Issued in Des Plaines, Illinois, on July 7, 2016.

Jim Keefer,

Manager, Chicago Airports District Office, FAA, Great Lakes Region.

[FR Doc. 2016–16937 Filed 7–15–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

The Eighth SC–229/The Ninth WG–98 Plenary Meeting Calling Notice, Aircraft Emergency Locator Transmitters (ELTs)

AGENCY: Federal Aviation Administration (FAA), U.S. Department of Transportation (DOT).

ACTION: The Eighth SC–229/The Ninth WG–98 Plenary Meeting Calling Notice, Aircraft Emergency Locator Transmitters (ELTs).

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of The Eighth SC–229/The Ninth WG–98 Plenary Meeting Calling Notice, Aircraft Emergency Locator Transmitters (ELTs).

DATES: The meeting will be held September 6–9, 2016. Tuesday 11:00 a.m. to 7:00 p.m., Wednesday 9:00 a.m. to 6:00 p.m., Thursday 9:00 a.m. to 5:00 p.m., and Friday from 10:00 a.m. to 4:00 p.m.

ADDRESSES: The meeting will be held at MERCURE Hotel, 31 Place, Jules Ferry, Lorient, France.

FOR FURTHER INFORMATION CONTACT: Alain Bouhet, *alain.bouhet@mcmurdogroup.com* or Rebecca Morrison, Program Director at (202) 330–0654, *rmorrison@rtca.org* or The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org*.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of the Eighth SC–229/The Ninth WG–98 Plenary Meeting Calling Notice Aircraft Emergency Locator Transmitters (ELTs). The agenda will include the following:

Day 1—Tuesday, 6th September 2016 (11 a.m.–7 p.m.)

1. Welcome/Introductions/Administrative Remarks
2. Agenda overview and approval
3. Washington DC Paris meeting review and approval
4. Review Action Items from Paris meeting
5. "Phasing in" RTCA/DO–204B, EUROCAE/ED–62B—Timeline and ToR
6. Briefing of:
   a. ICAO GADSS–AG activities
   b. COSPAS–SARSAT activities
7. Other Industry coordination and presentations
   a. GRICAS
   b. HELIOS
8. WG 2 to 5 status and week's plan
9. WG meetings (rest of the day)

Day 2—Wednesday, 7th September 2016 (9 a.m.–6 p.m.)

WG 2 to 5 meetings

Social Event—Diner at La Base place–Race boat marina

Day 3—Thursday, 8th September 2016 (9 a.m.–5 p.m.)

1. WG 2–5 meetings in the morning starting 9 a.m.
2. WGs' reports
3. Action item review
4. Future meeting plans and dates
5. Industry coordination and presentations (if any)
6. Other business
7. Adjourn

Day 4—Friday, 9th September 2016 (10 a.m.–4 p.m.)

1. SAR exercise in real conditions and meeting with French government people and large Military and Civil organizations
2. Visit of the site and interactive presentations on McMurdo expertise about Distress and Tracking

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on July 12, 2016.

Mohannad Dawoud,

Management & Program Analyst, Partnership Contracts Branch, ANG–A17, NexGen, Procurement Services Division, Federal Aviation Administration.

[FR Doc. 2016–16934 Filed 7–15–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 225, Rechargeable Lithium Battery and Battery Systems Twenty-Fourth Meeting

AGENCY: Federal Aviation Administration (FAA), U.S. Department of Transportation (DOT).

ACTION: RTCA Special Committee 225, Rechargeable Lithium Battery and

Battery Systems Twenty-Fourth Meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 225, Rechargeable Lithium Battery and Battery Systems Twenty-Fourth Meeting.

DATES: The meeting will be held August 9, 2016, 9:00 a.m. to 5:00 p.m.

ADDRESSES: The meeting will be held at: *https://rtca.webex.com/rtca/j.php?MTID=m49080be6d09ca112b2f0aaef27e66d49.*

Meeting number: 630 710 609.

Meeting password: August 2016.

Join by phone 1–877–668–4493 Call-in toll-free number (U.S./Canada), 1–650–479–3208 Call-in toll number (U.S./Canada), Access code: 630 710 609.

FOR FURTHER INFORMATION CONTACT: Jennifer Iversen at *jiversen@rtca.org* or (202) 330–0662 or The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of the RTCA Special Committee 225, Rechargeable Lithium Battery and Battery Systems Twenty-Fourth Meeting. The agenda will include the following:

Tuesday, August 9, 2016

1. Introductions and administrative items (including DFO & RTCA Statement) (15 min)
2. Review agenda (5 min)
3. Review and approve summary from the last Plenary (10 min)
4. Review and approve Multi-Cell Thermal Runaway test (3.5 hours)
5. Lunch (1:00 p.m. EDT)
6. Final review of document including: (3.5 hr)
   - —Changes made to document between plenary 23 and 24
   - —Document reformat
   - —Requirements (section 2.2)
   - —Test Procedures (section 2.4)
7. Approve document for Final Review and Comment (FRAC) (10 min)
8. Establish Agenda, location, and time for next Plenary (10 min)
9. Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on July 13, 2016.

Mohannad Dawoud,

Management & Program Analyst, Partnership Contracts Branch, ANG–A17, NextGen, Procurement Services Division, Federal Aviation Administration.

[FR Doc. 2016–16926 Filed 7–15–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Funding Opportunity for the Tribal Transportation Program Safety Funding

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of funding opportunity.

SUMMARY: This notice announces a funding opportunity and requests grant applications for FHWA's Tribal Transportation Program Safety Funds (TTPSF). In addition, this notice identifies selection criteria, application requirements, and technical assistance during the grant solicitation period for the TTPSF.

The TTPSF is authorized within the Tribal Transportation Program (TTP) under the Fixing America's Surface Transportation (FAST) Act. The FHWA will distribute these funds as described in this notice on a competitive basis in a manner consistent with the selection criteria.

DATES: Applications must be submitted electronically no later than 11:59 p.m., e.t. on September 16, 2016 (the "application deadline"). Applicants are encouraged to submit applications in advance of the application deadline; however, applications will not be evaluated, and awards will not be made until after the application deadline.

The FHWA plans to conduct outreach regarding the TTPSF in the form of a Webinar on August 3, 2016 at 2:00 p.m., e.t. To join the Webinar, please click this link then enter the room as a guest: *https://connectdot.connectsolutions.com/tribaltrans/.* The audio portion of the Webinar can be accessed from this teleconference line: TOLL FREE 1–888–251–2909; ACCESS CODE 4442306. The Webinar will be recorded and posted on FHWA's Web site at: *http://www.flh.fhwa.dot.gov/programs/ttp/safety/.* A TDD is available for individuals who are deaf or hard of hearing at 202–366–3993.

ADDRESSES: Applications must be submitted electronically through the Web site: *http://flh.fhwa.dot.gov/programs/ttp/safety/ttpsf.htm.*

FOR FURTHER INFORMATION CONTACT: For further information concerning this notice please contact Russell Garcia, TTPSF Program Manager, via email at *russell.garcia@dot.gov;* by telephone at 202–366–9815; or by mail at Federal Highway Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 8:00 a.m. to 4:30 p.m. e.t., Monday through Friday, except Federal holidays. For legal questions, please contact Ms. Vivian Philbin, Office of the Chief Counsel, by telephone at (720) 963–3445; by email at *vivian.philbin@dot.gov;* or by mail at Federal Highway Administration, Central Federal Lands Highway Division, 12300 West Dakota Avenue, Lakewood, CO 80228. Office hours are from 7:30 a.m. to 4:00 p.m. m.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: On August 5, 2013, FHWA published the first notice of funding availability for the TTPSF (78 FR 47480). On November 13, 2013, FHWA awarded 183 tribes a total of $8.6 million for 193 safety projects. On May 14, 2014, FHWA published the second notice of funding availability for the TTPSF (79 FR 27676). On March 10, 2015, FHWA awarded 82 tribes a total of $8.5 million for 94 projects to improve transportation safety on tribal lands. On June 26, 2015, FHWA published the third notice of funding availability for the TTPSF (80 FR 36885). On December 9, 2015, FHWA awarded 36 tribes a total of $449,500 for 36 projects for developing tribal safety plans. On April 26, 2016, FHWA awarded 35 tribes a total of $8 million for 54 projects. The FHWA is publishing this fourth notice to announce an additional round of funding and request grant applications for Fiscal Year 2016.

Table of Contents

A. Program Description
B. Federal Award Information
C. Eligibility Information
  1. Eligible Applicants
  2. Cost Sharing or Matching
D. Application and Submission Information
  1. Address To Request Application Package
  2. Content and Form of Application Submission
  3. Unique Entity Identifier and System for Award Management (SAM)
  4. Submission Dates and Time
  5. Intergovernmental Review
  6. Funding Restrictions
  7. Other Submission Requirements
E. Application Review Information

  - 1. Criteria
  - i. Safety Plans and Safety Planning Activities (Funding Goal 40 Percent of TTPSF)
  - ii. Other Eligible Activities as Listed in 23 U.S.C. 148(a)(4) (Funding Goal 60 Percent of TTPSF)
  - 2. Review and Selection Process
  - i. Safety Plans and Safety Planning Activities
  - ii. Other Eligible Activities as Listed in 23 U.S.C. 148(a)(4)
- F. Federal Award Administration Information
  - 1. Federal Award Notice
  - 2. Administrative and National Policy
  - 3. Reporting
- G. Federal Awarding Agency Contact(s)
- H. Other Information
  - 1. Protection of Confidential Business Information

A. Program Description

Since the TTPSF was created under Moving Ahead for Progress in the 21st Century (MAP–21), FHWA has awarded $17.1 million to 336 Indian tribes for 377 projects, including development of safety plans, to address safety issues in Indian country over three rounds of competitive grants. The intent of the TTPSF is to prevent and reduce deaths or serious injuries in transportation-related crashes on tribal lands where statistics are consistently higher than the rest of the Nation as a whole.

The TTPSF emphasizes the development of strategic Transportation Safety Plans using a data-driven process as a means for tribes to determine how transportation safety needs will be addressed in tribal communities. Tribal Transportation Safety Plans are a tool used to identify risk factors that lead to serious injury or death and organize various entities to strategically reduce risk; projects submitted must be data-driven, must be consistent with a comprehensive safety strategy, and must correct or improve a hazardous road location or feature or address a highway safety problem.

Throughout the past three grant cycles, TTPSF awards have supported safety planning, engineering, enforcement and emergency services, and education (the 4Es) projects. Successful TTPSF projects leverage resources, encourage partnership, and have the data to support the applicants' approach in addressing the prevention and reduction of death or serious injuries in transportation-related crashes. A listing of the safety projects/activities that tribes previously submitted and were awarded TTP safety funds, as well as additional safety-related information can be found on the TTP Safety Web site at *http://flh.fhwa.dot.gov/programs/ttp/safety/ttpsf.htm.* However, the FAST Act made some changes to the types of projects and activities that will be eligible for TTPSF grants in Fiscal Year 2016 and future years.

Under MAP–21, the Highway Safety Improvement Program (HSIP) included a range of eligible HSIP projects. The list of eligible projects was non-exhaustive, and a State could use HSIP funds on any safety project (infrastructure-related or non-infrastructure) that met the overarching requirements that the project be consistent with the State's Strategic Highway Safety Plan (SHSP) and correct or improve a hazardous road location or feature or address a highway safety problem. Although the FAST Act continued these overarching requirements under HSIP, it limited eligibility to the projects and activities listed in section 148(a)(4) of title 23, United States Code, most of which are infrastructure-safety related.

As a result of the FAST Act amendments, in Fiscal Year (FY) 2016, the TTPSF will only fund highway safety improvement projects eligible under the HSIP as listed in 23 U.S.C. 148(a)(4). For purposes of awarding funds under this program in FY 2016, FHWA has identified two eligibility categories and intends to focus approximately 40 percent of the funding on safety plans and safety planning activities, and the remaining 60 percent on other eligible activities as listed in 23 U.S.C. 148(a)(4).

B. Federal Award Information

The FAST Act authorized TTPSF as a set aside of not more than 2 percent of the funds made available under the TTP for FY 2016. This notice of funding opportunity solicits proposals under the TTPSF for FY 2016. Section 202(e) of title 23, United States Code, provides that the Secretary shall allocate funds based on an identification and analysis of highway safety issues and opportunities on tribal lands, as determined by the Secretary, on application of the Indian tribal governments for HSIP eligible projects described in 23 U.S.C. 148(a)(4). Eligible projects described in section 148(a)(4) include strategies, activities, and projects on a public road that are consistent with a State strategic highway safety plan and correct or improve a hazardous road location or feature, or address a highway safety problem.

Under 23 U.S.C. 148(a)(4), eligible projects are limited to the following:

(i) An intersection safety improvement.

(ii) Pavement and shoulder widening (including addition of a passing lane to remedy an unsafe condition).

(iii) Installation of rumble strips or another warning device, if the rumble strips or other warning devices do not adversely affect the safety or mobility of bicyclists and pedestrians, including persons with disabilities.

(iv) Installation of a skid-resistant surface at an intersection or other location with a high frequency of crashes.

(v) An improvement for pedestrian or bicyclist safety or safety of persons with disabilities.

(vi) Construction and improvement of a railway-highway grade crossing safety feature, including installation of protective devices.

(vii) The conduct of a model traffic enforcement activity at a railway-highway crossing.

(viii) Construction of a traffic calming feature.

(ix) Elimination of a roadside hazard.

(x) Installation, replacement, and other improvement of highway signage and pavement markings, or a project to maintain minimum levels of retroreflectivity, that addresses a highway safety problem consistent with an SHSP.

(xi) Installation of a priority control system for emergency vehicles at signalized intersections.

(xii) Installation of a traffic control or other warning device at a location with high crash potential.

(xiii) Transportation safety planning.

(xiv) Collection, analysis, and improvement of safety data.

(xv) Planning integrated interoperable emergency communications equipment, operational activities, or traffic enforcement activities (including police assistance) relating to work zone safety.

(xvi) Installation of guardrails, barriers (including barriers between construction work zones and traffic lanes for the safety of road users and workers), and crash attenuators.

(xvii) The addition or retrofitting of structures or other measures to eliminate or reduce crashes involving vehicles and wildlife.

(xviii) Installation of yellow-green signs and signals at pedestrian and bicycle crossings and in school zones.

(xix) Construction and operational improvements on high risk rural roads.

(xx) Geometric improvements to a road for safety purposes that improve safety.

(xxi) A road safety audit.

(xxii) Roadway safety infrastructure improvements consistent with the recommendations included in the publication of the Federal Highway Administration entitled "Highway Design Handbook for Older Drivers and Pedestrians" (FHWA–RD–01–103), dated May 2001 or as subsequently revised and updated.

(xxiii) Truck parking facilities eligible for funding under section 1401 of the MAP–21.

(xxiv) Systemic safety improvements.

(xxv) Installation of vehicle-to-infrastructure communication equipment.

(xxvi) Pedestrian hybrid beacons.

(xxvii) Roadway improvements that provide separation between pedestrians and motor vehicles, including medians and pedestrian crossing islands.

(xxviii) A physical infrastructure safety project not described in clauses (i) through (xxvii).

For more information regarding eligible activities under HSIP, please see FHWA guidance at:

http://safety.fhwa.dot.gov/legislationandpolicy/fast/guidance.cfm
http://safety.fhwa.dot.gov/hsip/rulemaking/docs/hsip_ig42216_final.pdf

Section 202(e) further specifies that in applying for TTPSF, an Indian tribal government, in cooperation with the Secretary of the Interior and, as appropriate, with a State, local government, or metropolitan planning organization, shall select projects from the transportation improvement program (TIP), subject to the approval of the Secretary of Transportation and the Secretary of the Interior.

Upon award, successful applicants will receive the TTPSF funds through their existing TTP contracting methodology with either the FHWA or Bureau of Indian Affairs (BIA). Upon completion of a TTPSF project, funds that are not expended are to be recovered and returned to the FHWA to be made available for the following year's TTPSF grant cycle.

C. Eligibility Information

To be selected for a TTPSF award, an applicant must be a federally recognized Indian tribe and the project must be an eligible project.

1. Eligible Applicants

Eligible applicants for TTPSF discretionary grants are federally recognized tribes identified on the list of "Indian Entities Recognized and Eligible to Receive Services from the Bureau of Indian Affairs" (published at 81 FR 26826). Other entities may partner with a tribal government to submit an application, but the eligible applicant must be a federally recognized Indian tribe. A tribe may submit more than one application; however, only one project may be included in each application.

Recipients of prior TTPSF funds may submit applications during this current round according to the selection criteria. However, to be competitive, the applicant should demonstrate the extent to which the previously funded project or projects has been able to meet estimated project schedules and budget, as well as the ability to realize the outcomes for previous awards.

2. Cost Sharing or Matching

There is no matching requirement for the TTPSF. However, if the total amount of funding requested for applications rated "highly qualified" or "qualified" exceeds the amount of available funding, FHWA will give priority consideration to those projects that show a commitment of other funding sources to complement the TTPSF funding request. Therefore, leveraging a TTPSF request with other funding sources identified in Section E is encouraged.

D. Application and Submission Information

1. Address To Request Application Package

Application package can be downloaded from the TTPSF Web site: *http://flh.fhwa.dot.gov/programs/ttp/safety/ttpsf.htm.* Applicants may also request a paper copy of this application package by contacting Russell Garcia at 202–366- 9815. For a Telephone Device for the Deaf (TDD) please call 202–366–3993. The applications must be submitted electronically through the following Web site: *http://flh.fhwa.dot.gov/programs/ttp/safety/ttpsf.htm.* Applicants are encouraged to submit applications in advance of the application deadline; however, applications will not be evaluated, and awards will not be made until after the application deadline.

2. Content and Form of Application Submission

The FHWA may request additional information, including additional data, to clarify an application, but FHWA encourages applicants to submit the most relevant and complete information they can provide. The FHWA also encourages applicants, to the extent practicable, to provide data and evidence of project merits in a form that is publicly available or verifiable.

The applicants should include the following information in their applications:

i. Fill out an online form similar to SF–424 at: *http://flh.fhwa.dot.gov/programs/ttp/safety/ttpsf.htm*
ii. Narrative

Applicants must attach a supplemental narrative to their submission to successfully complete the application process. Applicants must include the supplemental narrative in the attachments section of the form.

Applicants must identify the eligibility category for which they are seeking funds in the project narrative. In addition, applicants should address each question or statement in their applications. It is recommended that applicants use standard formatting (*e.g.,* a single-spaced document, using a standard 12-point font, such as Times New Roman, with 1-inch margins) to prepare their application narratives. An application must include any information needed to verify that the project meets the statutory eligibility criteria in order for the FHWA to evaluate the application against TTPSF rating criteria.

Applicants should demonstrate the responsiveness of their proposals to any pertinent selection criteria with the most relevant information that applicants can provide, and substantiated by data, regardless of whether such information is specifically requested, or identified, in the final notice. Applicants should provide evidence of the feasibility of achieving certain project milestones, financial capacity, and commitment in order to support project readiness.

Consistent with the requirements for an eligible highway safety improvement project under 23 U.S.C. 148(a)(4), applicants must describe clearly how their project would correct or improve a hazardous road location or feature, or would address a highway safety problem. The application must include supporting data.

For ease of review, FHWA recommends that the project narrative generally adhere to the following basic outline, and include a table of contents, project abstract, maps, and graphics:

a. *Project Abstract:* Describe project work that would be completed under the project, the hazardous road location or feature or the highway safety problem that the project would address, and whether the project is a complete project or part of a larger project with prior investment (maximum five sentences). The project abstract must succinctly describe how this specific request for TTPSF would be used to complete the project.

b. *Project Description:* Include information on the expected users of the project, a description of the hazardous road location or feature or the highway safety problem that the project would address, and how the project would address these challenges;

c. *Applicant information and coordination with other entities:* Identify the Indian tribal government applying for TTPSF, a description of cooperation with other entities in selecting projects from the TIP as required under 23 U.S.C. 202(e)(2), and information regarding any other entities involved in the project;

d. *Grant Funds and Sources/Uses of Project Funds:* Include information about the amount of grant funding requested for the project, availability/commitment of funds sources and uses of all project funds, total project costs, percentage of project costs that would be paid for with the TTPSF, and the identity and percentage shares of all parties providing funds for the project (including Federal funds provided under other programs);

e. Include a description of how the proposal meets the Selection Criteria identified in Section E, Subsection 1 Criteria.

3. Unique Entity Identifier and System for Award Management (SAM)

The TTPSF requires applicants to provide their Data Universal Numbering System (DUNS) number with their application.

4. Submission Dates and Time

i. Deadline—Applications must be submitted electronically no later than 11:59 p.m., e.t. on September 16, 2016 (the "application deadline").

ii. Applicants are encouraged to submit applications in advance of the application deadline; however, applications will not be evaluated, and awards will not be made until after the application deadline.

iii. Upon submission of the applications electronically through the following Web site: *http://flh.fhwa.dot.gov/programs/ttp/safety/ttpsf.htm,* the applicants will receive automatic reply confirming transmittal of the application to the FHWA. Please contact Russell Garcia at 202–366–9815, should you not receive any confirmation from the FHWA.

iv. Late Applications—Applications received after the deadline will not be considered except in the case of unforeseen technical difficulties that are beyond the applicant's control. The FHWA will consider late applications on a case-by-case basis. Applicants are encouraged to submit additional information documenting the technical difficulties experienced, including a screen capture of any error messages received.

5. Intergovernmental Review

The TTPSF is not subject to the Intergovernmental Review of Federal Programs.

6. Funding Restrictions

There are no funding restrictions on any applications. However, FHWA anticipates high demand for this limited amount of funding and encourages applications with scalable requests that allow more tribes to receive funding and for requests that identify a commitment of other funding sources to complement the TTPSF funding request. Applicants should demonstrate the capacity to successfully implement the proposed request in a timely manner, and ensure that cost estimates and timelines to complete deliverables are included in their applications.

7. Other Submission Requirements

Applications must be submitted electronically through the following Web site: *http://flh.fhwa.dot.gov/programs/ttp/safety/ttpsf.htm.*

E. Application Review Information

1. Criteria

The FHWA will award TTPSF funds based on the selection criteria and policy considerations as outlined below. However, to be competitive, the applicant should demonstrate the extent to which a previously funded project or projects has been able to meet estimated project schedules and budget, as well as the ability to realize the outcomes for previous awards.

The FHWA intends to allocate the TTPSF between two categories as follows: (1) Safety plans and safety planning activities (40 percent); and (2) other eligible activities as listed in 23 U.S.C. 148(a)(4) (60 percent). These proposed allocation amounts provide substantial funding for tribal safety plans and planning activities to reflect the strong need that has been identified in this area and to ensure that all tribes have an opportunity to assess their safety needs and prioritize safety projects. These percentages are only funding goals and may be adjusted to reflect the amounts requested in the applications received in response to this notice.

i. Safety Plans and Safety Planning Activities (Funding Goal 40 Percent of TTPSF)

The development of a tribal safety plan that is data-driven, identifies transportation safety issues, prioritizes activities, is coordinated with the State SHSP (all State SHSPs can be found at: *http://safety.fhwa.dot.gov/hsip/shsp/state_links.cfm*), and promotes a comprehensive approach to addressing safety needs by including all 4Es, is a critical step in improving highway safety. Additional information on developing a tribal safety plan can be found at: *http://flh.fhwa.dot.gov/programs/ttp/safety/.* Accordingly, FHWA will award TTPSF for developing and updating tribal safety plans, and other safety planning activities. The FHWA will use the following criteria in the evaluation of TTPSF funding requests for tribal safety plans: (1) Development of a tribal safety plan where none currently exists, and (2) age or status of an existing tribal safety plan.

The FHWA will use the following criteria in the evaluation of TTPSF funding requests for safety planning activities: (1) Inclusion of the activity in a completed State SHSP or tribal transportation safety plan that is no more than 5 years old; (2) submission of supporting data that demonstrates the need for the activity; (3) leveraging of private or other public funding; or (4) the project is part of a comprehensive approach to safety which includes other safety efforts.

Examples of eligible safety planning activities include:

- Development or Updating of Tribal Safety Plans;
- Collection, analysis, and improvement of safety data; and
- Road safety audits/assessments.

ii. Other Eligible Activities as Listed in 23 U.S.C. 148(a)(4) (Funding Goal 60 Percent of TTPSF)

The FHWA will use the following criteria in the evaluation of funding requests under this category: (1) Inclusion of the project or activity in a completed State SHSP or tribal transportation safety plan that is no more than 5 years old, or inclusion of the activity in a completed road safety audit, engineering study, impact assessment or other engineering document; (2) submission of supporting data that demonstrates the need for the project; (3) ownership of the facility, if applicable; (4) leveraging of private or other public funding; (5) years since the tribe has last received funding for a TTPSF engineering improvement project, if applicable; or (6) the project is part of a comprehensive approach to safety which includes other safety efforts.

Examples of other eligible activities as identified in 23 U.S.C. 148(a)(4) include:

- An intersection safety improvement;

- Pavement and shoulder widening (including addition of a passing lane to remedy an unsafe condition);
- Installation of rumble strips or another warning device, if the rumble strips or other warning devices do not adversely affect the safety or mobility of bicyclists and pedestrians, including persons with disabilities;
- Installation of a skid-resistant surface at an intersection or other location with a high frequency of crashes;
- An improvement for pedestrian or bicyclist safety or safety of persons with disabilities;
- Construction and improvement of a railway-highway grade crossing safety feature, including installation of protective devices;
- The conduct of a model traffic enforcement activity at a railway-highway crossing;
- Construction of a traffic calming feature;
- Elimination of a roadside hazard;
- Installation, replacement, and other improvement of highway signage and pavement markings, or a project to maintain minimum levels of retroreflectivity that addresses a highway safety problem consistent with a Tribal or State strategic highway safety plan;
- Installation of a priority control system for emergency vehicles at signalized intersections;
- Installation of a traffic control or other warning device at a location with high crash potential;
- Planning integrated interoperable emergency communications equipment, operational activities, or traffic enforcement activities (including police assistance) relating to work zone safety;
- Installation of guardrails, barriers (including barriers between construction work zones and traffic lanes for the safety of road users and workers), and crash attenuators;
- The addition or retrofitting of structures or other measures to eliminate or reduce crashes involving vehicles and wildlife;
- Installation of yellow-green signs and signals at pedestrian and bicycle crossings and in school zones;
- Construction and operational improvements on high risk rural roads;
- Geometric improvements to a road for safety purposes that improve safety;
- Roadway safety infrastructure improvements consistent with the recommendations included in the FHWA publication entitled "Highway Design Handbook for Older Drivers and Pedestrians" (FHWA–RD–01–103, dated May 2001 or as subsequently revised and updated;
- Truck parking facilities eligible for funding under section 1401 of MAP–21;
- Systemic safety improvements;
- Installation of a vehicle to infrastructure communication equipment;
- Pedestrian hybrid beacons;
- Roadway improvements that provide separation between pedestrians and motor vehicles, including medians and pedestrian crossing islands; and
- Other physical infrastructure safety projects.

2. Review and Selection Process

The TTPSF grant applications will be evaluated in accordance with evaluation process discussed below. The FHWA will establish an evaluation team to review each application received by FHWA prior to the application deadline. The FHWA will lead the evaluation team, which will include members from the BIA. The evaluation team will include technical and professional staff with relevant experience and expertise in tribal transportation safety issues. The evaluation team will be responsible for evaluating and rating all eligible projects. The evaluation team will review each application against the evaluation criteria in each of the categories and assign a rating of "Highly Qualified," "Qualified," or "Not Qualified" to each application for the FHWA Administrator's review. The FHWA Administrator will forward funding recommendations to the Office of the Secretary. The final funding decisions will be made by the Secretary of Transportation.

All applications will be evaluated and assigned a rating of "Highly Qualified," "Qualified," or "Not Qualified." The ratings, as defined below, are proposed within each priority funding category as follows:

i. Safety Plans and Safety Planning Activities[1]

I. Development of Tribal Safety Plans

a. *Highly Qualified:* Requests (up to a maximum of $12,500) for development of new tribal safety plans or to update incomplete tribal safety plans; and requests (up to a maximum of $7,500) to update existing tribal safety plans that are more than 3 years old.

b. *Not Qualified:* Projects that do not meet the eligibility requirements; any request to update an existing tribal safety plan that is less than 3 years old.

II. Other Safety Planning Activities

a. *Highly Qualified:* Requests for other safety planning activities that are in a current State SHSP or tribal safety plan that is not more than 5 years old; submission of data that demonstrates the need for the activities; and significant leveraging of TTPSF fund with private or public funding or are part of a comprehensive approach to safety which includes other safety efforts. If the total amount of funding requested for applications rated as "highly qualified" exceeds the amount of available funding, FHWA will give priority funding consideration to funding one or more independent components of a highly qualified project. To be eligible, a component must meet eligibility criteria and must be a transportation safety project that has independent utility (*i.e.,* is usable and a reasonable expenditure of Federal funds even if no other improvements are made in the area). In other words, FHWA may fund an independent component of a project, instead of the full project described in the application, only if that component provides transportation benefits and will be ready for its intended use upon completion of that component.

Applicants should be aware that while it is anticipated that most of these projects will be categorical exclusions because they do not lead to construction or have potentially significant traffic or other impacts, depending on the relationship between the overall project and the independent component, the National Environmental Policy Act (NEPA) review for the independent component may have to include evaluation of all project components as connected, similar, or cumulative actions, as detailed at 40 CFR 1508.25. Priority consideration will also be given to funding requests that include a commitment of other funding sources to complement the TTPSF, and those requests where the applicants demonstrate the capacity to successfully implement the proposed project in a timely manner.

b. *Qualified:* Requests for other safety planning activities that are in a current State SHSP or tribal safety plan that is more than 5 years old; submission of some data that demonstrates the need for the activity; and some leveraging of TTPSF funds with private or public funding or is part of a comprehensive approach to safety which includes other safety efforts.

---

[1] The development of a tribal safety plan is the cornerstone for all future tribal safety activities. Because of the importance of developing, completing, or updating a tribal safety plan and for this one category only, applications will be deemed either "highly qualified" or "not qualified." All applications to develop a new tribal safety plan, update an incomplete safety plan, or update an existing tribal safety plan more than 3 years old are deemed to be highly qualified. Applications not directed to developing, updating or completing existing a tribal safety plan or which address a plan not older than 3 years are deemed "Not Qualified."

If the total amount of funding requested for applications rated as "qualified" exceeds the amount of available funding, FHWA will give priority funding consideration to funding one or more independent components of a qualified project. To be eligible, a component must meet eligibility criteria and must be a transportation safety project that has independent utility (*i.e.*, is usable and a reasonable expenditure of Federal funds even if no other improvements are made in the area). In other words, FHWA may fund an independent component of a project, instead of the full project described in the application, only if that component provides transportation benefits and will be ready for its intended use upon completion of that component. Applicants should be aware that while it is anticipated that most of these projects will be categorical exclusions because they do not lead to construction or have potentially significant traffic or other impacts, depending on the relationship between the overall project and the independent component, the NEPA review for the independent component may have to include evaluation of all project components as connected, similar, or cumulative actions, as detailed at 40 CFR 1508.25. Priority consideration will also be given to funding requests that include a commitment of other funding sources to complement the TTPSF, and those requests where the applicants demonstrate the capacity to successfully implement the proposed project in a timely manner.

c. *Not Qualified:* Projects that do not meet the eligibility requirements; or projects that are not included in a State SHSP or tribal safety plan.

ii. Other Eligible Activities as Listed in 23 U.S.C. 148(a)(4)

a. *Highly Qualified:* Efforts that are in a current State SHSP or tribal safety plan that is less than 5 years old, or the project is in a current road safety audit, or impact assessment, or other safety engineering study; data included in the application that directly supports the project; projects located on a BIA or tribal facility; and significant leveraging of TTPSF funds with other funding; and the tribe has not received funding for a TTPSF transportation safety construction project in more than 10 years or the project is part of a comprehensive approach to safety which includes three or more other safety efforts.

If the total amount of funding requested for applications rated as "highly qualified" exceeds the amount of available funding, FHWA will give priority funding consideration to funding one or more independent components of a highly qualified project. To be eligible, a component must meet eligibility criteria and must be a transportation improvement that has independent utility (*i.e.*, is usable and a reasonable expenditure of Federal funds even if no other improvements are made in the area). In other words, FHWA may fund an independent component of a project, instead of the full project described in the application, only if that component provides transportation benefits and will be ready for its intended use upon completion of that component's construction. Applicants should be aware that, depending on the relationship between the overall project and the independent component, the NEPA review for the independent component may have to include evaluation of all project components as connected, similar, or cumulative actions, as detailed at 40 CFR 1508.25. Priority consideration will also be given to funding requests that include a commitment of other funding sources to complement the TTPSF, and those requests where the applicants demonstrate the capacity to successfully implement the proposed project in a timely manner.

b. *Qualified:* Efforts that are in a current State SHSP or tribal safety plan, but the plan is more than 5 years old, or the project is in a road safety audit, or impact assessment, or other safety engineering study that is more than 5 years old; some data included in the application that supports the project; project is located on a transportation facility not owned by a tribe or BIA; and some leveraging of TTPSF funds with other funding; or is part of a coordinated approach with one or two other safety efforts; the tribe has not received funding for a TTPSF transportation safety construction project in the last 2 to 10 years.

If the total amount of funding requested for applications rated as "qualified" exceeds the amount of available funding, FHWA will give priority funding consideration to funding one or more independent components of a qualified project. To be eligible, a component must meet eligibility criteria and must be a transportation improvement that has independent utility (*i.e.*, is usable and a reasonable expenditure of Federal funds even if no other improvements are made in the area). In other words, FHWA may fund an independent component of a project, instead of the full project described in the application, only if that component provides transportation benefits and will be ready for its intended use upon completion of that component's construction. Applicants should be aware that, depending on the relationship between the overall project and the independent component, the NEPA review for the independent component may have to include evaluation of all project components as connected, similar, or cumulative actions, as detailed at 40 CFR 1508.25. Priority consideration will also be given to funding requests that include a commitment of other funding sources to complement the TTPSF, and those requests where the applicants demonstrate the capacity to successfully implement the proposed project in a timely manner.

c. *Not Qualified:* Projects that do not meet the eligibility requirements; are not included in a State SHSP or tribal safety plan; no data provided in the application to support the request; are not included in a road safety audit, impact assessment, or other safety engineering study; have received funding for a TTPSF transportation safety construction project within the last 2 years; or do not have a comprehensive approach to safety with other partners.

F. Federal Award Administration Information

1. Federal Award Notice

The FHWA will announce the awarded projects by posting a list of selected projects at *http://flh.fhwa.dot.gov/programs/ttp/safety/*. Following the announcement, successful applicants and unsuccessful applicants will be notified separately.

2. Administrative and National Policy Requirements

All awards will be administered pursuant to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards found in 2 CFR part 200. Applicable Federal laws, rules, and regulations set forth in title 23, U.S.C., and title 23 of the CFR apply.

The TTPSF will be administered the same way as all TTP funds: FHWA Agreement tribes will receive funds in accordance with their Program Agreement through a Referenced Funding Agreement (RFA); BIA Agreement tribes will receive their funds through their BIA Regional Office; and Compact tribes will receive their funds through the Department of the Interior's Office of Self Governance.

3. Reporting

Required reporting follows the requirements for regular TTP funds.

G. Federal Awarding Agency Contact(s)

For further information concerning this notice please contact Russell Garcia, TTPSF Program Manager, via email at *russell.garcia@dot.gov;* by telephone at 202–366–9815; or by mail at Federal Highway Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 8:00 a.m. to 4:30 p.m. e.t., Monday through Friday, except Federal holidays. For legal questions, please contact Ms. Vivian Philbin, Office of the Chief Counsel, by telephone at (720) 963–3445; by email at *vivian.philbin@dot.gov;* or by mail at Federal Highway Administration, Central Federal Lands Highway Division, 12300 West Dakota Avenue, Lakewood, CO 80228. Office hours are from 7:30 a.m. to 4:00 p.m. m.t., Monday through Friday, except Federal holidays.

H. Other Information

1. Protection of Confidential Business Information

All information submitted as part of or in support of any application shall use publicly available data or data that can be made public and methodologies that are accepted by industry practice and standards, to the extent possible. If the application includes information you consider to be a trade secret or confidential commercial or financial information, the applicant should do the following: (1) Note on the front cover that the submission "Contains Confidential Business Information (CBI)," (2) mark each affected page "CBI," and (3) highlight or otherwise denote the CBI portions.

Authority: Section 1118 of Pub. L. 114–94; 23 U.S.C. 202(e).

Issued on: July 11, 2016.

Gregory G. Nadeau,

Administrator, Federal Highway Administration.

[FR Doc. 2016–16875 Filed 7–15–16; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2016–0003; Notice 2]

Continental Tire the Americas, LLC, Grant of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition.

SUMMARY: Continental Tire the Americas, LLC (CTA), has determined that certain CTA tires do not fully comply with paragraph S5.5(f) of Federal Motor Vehicle Safety Standard (FMVSS) No. 139 *New Pneumatic Radial Tires for Light Vehicles.* CTA filed a report dated December 11, 2015, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* CTA then petitioned NHTSA under 49 CFR part 556 requesting a decision that the subject noncompliance is inconsequential to motor vehicle safety.

ADDRESSES: For further information on this decision contact Abraham Diaz, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–5310, facsimile (202) 366–5930.

SUPPLEMENTARY INFORMATION:

I. Overview

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing regulations at 49 CFR part 556), CTA submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the petition was published, with a 30-day public comment period, on March 25, 2016 in the **Federal Register** (81 FR 16269). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: *http://www.regulations.gov/.* Then follow the online search instructions to locate docket number "NHTSA–2016–0003."

II. Tires Involved

Affected are approximately 1,800 General Tire brand Grabber size LT265/75R16 112/109 Q LRC tires that were manufactured between December 10, 2010[1] and September 9, 2013.

III. Noncompliance

CTA explains that due to a mold error, the number of tread plies indicated on the sidewall of the subject tires does not match the actual number of plies in the tire construction. The tires are marked "PLIES: TREAD: 2 POLYESTER + 2 STEEL + 2 POLYAMIDE" whereas the correct marking should be: "PLIES: TREAD: 2 POLYESTER + 2 STEEL + 1 POLYAMIDE." As a consequence, these tires do not meet requirements specified in paragraph S5.5(f) of FMVSS No. 139.

IV. Rule Text

Paragraph S5.5(f) of FMVSS No. 139 states, in pertinent part:

> S5.5 *Tire Markings.* Except as specified in paragraph (a) through (i) of S5.5, each tire must be marked on each sidewall with the information specified in S5.5(a) through (d) and on one sidewall with the information specified in S5.5(e) through (i) according to the phase-in schedule specified in S7 of this standard . . .
>
> (f) The actual number of plies in the sidewall, and the actual number of plies in the tread area, if different.

V. Summary of CTA's Petition

CTA described the subject noncompliance and stated its belief that the noncompliance is inconsequential to motor vehicle safety.

In support of its petition, CTA submitted the following information pertaining to the subject noncompliance:

(a) CTA stated that the tires covered by this petition are labeled with incorrect information regarding the number of tread plies. The company noted that while the number of polyester and steel plies indicated on the sidewall is accurate, the number of polyamide plies indicated is incorrect. The company contended, however, that this mislabeling has no impact on the operational performance of these tires or on the safety of vehicles on which these tires are mounted. The company asserted that the tires meet or exceed all of the performance requirements of FMVSS No. 139.

(b) CTA noted that NHTSA has concluded in response to numerous other petitions that this type of noncompliance is inconsequential to motor vehicle safety. CTA referenced notices that NHTSA has published in the **Federal Register** granting the following inconsequentiality petitions:

---

[1] Subsequent to the original filing, CTA informed NHTSA that the original manufacture start date as stated in their part 573 should in fact be November 7, 2010.

- Petition of Hankook Tire America Corp., 79 FR 30688 (May 28, 2014);
- Petition of Bridgestone Americas Tire Operations, LLC, 78 FR 47049 (August 2, 2013);
- Petition of Cooper Tire & Rubber Company, 78 FR 47050 (August 2, 2013).

(c) CTA states that all tires covered by its petition meet or exceed the performance requirements of FMVSS No. 139, as well as the other labeling requirements of the standard.

(d) CTA also states that it is not aware of any crashes, injuries, customer complaints, or field reports associated with the subject noncompliance.

CTA additionally informed NHTSA that it has quarantined all existing inventory of the tires that contain the noncompliant tire sidewall labeling and has corrected the molds at the manufacturing plant so that no additional tires will be manufactured with the noncompliance.

In summation, CTA believes that the described noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and to remedy the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA'S Decision

NHTSA'S Analysis: The agency agrees with CTA that the noncompliance is inconsequential to motor vehicle safety. The agency believes that one measure of inconsequentiality to motor vehicle safety in this case is that there is no effect of the noncompliance on the operational safety of vehicles on which these tires are mounted. The safety of people working in the tire retread, repair and recycling industries must also be considered and is a measure of inconsequentiality.

Although tire construction affects the strength and durability of tires, neither the agency nor the tire industry provides information relating tire strength and durability to the number of plies and types of ply cord material in the tread sidewall. Therefore, tire dealers and customers should consider the tire construction information along with other information such as the load capacity, maximum inflation pressure, and tread wear, temperature, and traction ratings, to assess performance capabilities of various tires. In the agency's judgement, the incorrect labeling of the tire construction information will have an inconsequential effect on motor vehicle safety because most consumers do not base tire purchases or vehicle operation parameters on the number of plies in a tire.

The agency also believes the noncompliance will have no measureable effect on the safety of the tire retread, repair, and recycling industries. The use of steel cord construction in the sidewall and tread is the primary safety concern of these industries. In this case, since the tire sidewalls are marked correctly for the number of steel plies, this potential safety concern does not exist.

NHTSA'S Decision: In consideration of the foregoing, NHTSA finds that CTA has met its burden of persuasion that the subject FMVSS No. 139 noncompliance in the affected tires is inconsequential to motor vehicle safety. Accordingly, CTA's petition is hereby granted and CTA is consequently exempted from the obligation of providing notification of, and a free remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject tires that CTA no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve equipment distributors and dealers from the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after CTA notified them that the subject noncompliance exists.

Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8.

Jeffrey M. Giuseppe,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2016–16843 Filed 7–15–16; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket ID OCC–2016–0018]

Mutual Savings Association Advisory Committee

AGENCY: Office of the Comptroller of the Currency (OCC), Department of the Treasury.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The OCC announces a meeting of the Mutual Savings Association Advisory Committee (MSAAC).

DATES: A public meeting of the MSAAC will be held on Wednesday, August 3, 2016, beginning at 1:00 p.m. Eastern Daylight Time (EDT).

ADDRESSES: The OCC will hold the August 3, 2016 meeting of the MSAAC at the OCC's offices at 400 7th Street SW., Washington, DC 20219.

FOR FURTHER INFORMATION CONTACT: Michael R. Brickman, Deputy Comptroller for Thrift Supervision, (202) 649–5420, Office of the Comptroller of the Currency, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: By this notice, the OCC is announcing that the MSAAC will convene a meeting on Wednesday, August 3, 2016, at the OCC's offices at 400 7th Street SW., Washington, DC 20219. The meeting is open to the public and will begin at 1:00 p.m. EDT. The purpose of the meeting is for the MSAAC to advise the OCC on regulatory changes or other steps the OCC may be able to take to ensure the continued health and viability of mutual savings associations and other issues of concern to existing mutual savings associations. The agenda includes a discussion of current topics of interest to the industry.

Members of the public may submit written statements to the MSAAC. The OCC must receive written statements no later than 5:00 p.m. EDT on Wednesday, July 27, 2016. Members of the public may submit written statements to *MSAAC@occ.treas.gov* or by mailing them to Michael R. Brickman, Designated Federal Officer, Mutual Savings Association Advisory Committee, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

Members of the public who plan to attend the meeting should contact the OCC by 5:00 p.m. EDT on Wednesday, July 27, 2016, to inform the OCC of their desire to attend the meeting and to provide information that will be required to facilitate entry into the meeting. Members of the public may contact the OCC via email at *MSAAC@OCC.treas.gov* or by telephone at (202) 649–5420. Members of the public who are deaf or hard of hearing should call (202) 649–5597 (TTY) by 5:00 p.m. EDT Wednesday, July 27, 2016, to arrange auxiliary aids such as sign language interpretation for this meeting.

Attendees should provide their full name, email address, and organization, if any. For security reasons, attendees will be subject to security screening procedures and must present a valid government-issued identification to enter the building.

Dated: July 12, 2016.

Thomas J. Curry,

Comptroller of the Currency.

[FR Doc. 2016–16958 Filed 7–15–16; 8:45 am]

BILLING CODE 4810–33–P

UNITED STATES INSTITUTE OF PEACE

Notice of Meeting

Agency: United States Institute of Peace.

Date/Time: Friday, July 22, 2016 (10:00 a.m.–2:15 p.m.).

Location: 2301 Constitution Avenue NW., Washington, DC 20037.

Status: Open Session—Portions may be closed pursuant to Subsection (c) of Section 552(b) of Title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Public Law 98–525.

Agenda: Approval of Minutes of the One Hundred Fifty-eighth Meeting (April 25, 2016) of the Board of Directors; Chairman's Report; Vice Chairman's Report; President's Report; Reports from USIP Board Committees; Global Peacebuilding Center: Engaging the American People Presentation and Discussion; Iraq Update; PeaceTech Discussion.

Contact: Nick Rogacki, Special Assistant to the President, Email: *nrogacki@usip.org*

Dated: July 11, 2016.

Nicholas Rogacki,

Special Assistant to the President.

[FR Doc. 2016–16785 Filed 7–15–16; 8:45 am]

BILLING CODE 6820–AR–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

FEDERAL REGISTER

Vol. 81 Monday,
No. 137 July 18, 2016

Part II

Department of Energy

---

10 CFR Parts 429 and 430
Energy Conservation Program: Final Coverage Determination; Test Procedures for Miscellaneous Refrigeration Products; Final Rule

DEPARTMENT OF ENERGY

10 CFR Parts 429 and 430

[Docket No. EERE–2013–BT–TP–0029 and EERE–2011–BT–DET–0072]

RIN 1904–AD44, 1904–AC66, and 1904–AC51

Energy Conservation Program: Final Coverage Determination; Test Procedures for Miscellaneous Refrigeration Products

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Final rule.

SUMMARY: This final rule classifies a variety of refrigeration products that are collectively described as "miscellaneous refrigeration products"—*i.e.,* "MREFs," as a covered product under Part A of Title III of the Energy Policy and Conservation Act ("EPCA"), as amended. These products include different types of refrigeration devices that include one or more compartments that maintain higher temperatures than typical refrigerator compartments, such as wine chillers and beverage coolers. Additionally, this final rule amends or establishes certain definitions related to these products and establishes test procedures for certain classes of MREFs. These procedures are based an earlier proposal the Department of Energy published on December 16, 2014, along with additional feedback provided as part of a negotiated rulemaking effort focusing on these products. The test procedures follow the same general methodology as those currently in place for refrigerators, refrigerator-freezers, and freezers. Through this rule, the test procedures for MREFs will be codified. This rule also establishes similar clarifying amendments for freezers.

DATES: *Effective Date:* The effective date of this rule is August 17, 2016, except for 10 CFR 429.14(c)(2) and (3), which are stayed indefinitely. DOE will publish a document in the **Federal Register** announcing the effective date of these provisions.

Compliance Date: Except as noted in the definitions for, freezers, refrigerator, and refrigerator-freezers in 10 CFR 430.2, the final rule changes related to the test procedure provisions detailed in this document will be mandatory for representations of energy use starting January 17, 2017.

ADDRESSES: The docket, which includes **Federal Register** documents, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at *regulations.gov.* All documents in the docket are listed in the *regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

A link to the docket Web page can be found at: *https://www.regulations.gov/#!docketDetail;D=EERE-2013-BT-TP-0029* or *https://www.regulations.gov/#!docketDetail;D=EERE-2011-BT-DET-0072.* These Web pages will contain a link to this document on the *regulations.gov* site. The *regulations.gov* Web page will contain simple instructions on how to access all documents, including public comments, in the dockets.

For further information on how to review the docket, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Joseph Hagerman, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202)586–6590 Email: *Joseph.Hagerman@ee.doe.gov.*

Michael Kido, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–8145. Email: *Michael.Kido@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Authority and Background
  A. General Rulemaking Authority
  B. Current Rulemaking Process
II. Summary of the Final Rule
III. Scope of Coverage
IV. Evaluation of Miscellaneous Refrigeration Products as Covered Products
  A. Coverage Necessary or Appropriate To Carry Out Purposes of EPCA
  B. Energy Use Estimates
  1. Coolers
  2. Combination Cooler Refrigeration Products
  3. Conclusions
V. Product Definitions
  A. Coolers
  B. Combination Cooler Refrigeration Products
  C. Refrigerators, Refrigerator Freezers, and Freezers
  D. General Terms for the Groups of Products Addressed in This Rule
VI. Test Procedure Discussion
  A. Test Procedure Sections and Appendices Addressing the Newly Covered Products
  B. Elimination of Definition Numbering in the Appendices
  C. Removal of Provisions for Externally-Vented Products
  D. Sampling Plans, Certification Reporting, and Measurement/Verification of Volume
  E. Compartment Definition
  F. Cooler Compartments
  1. Cooler Compartment Standardized Temperature
  2. Cooler Compartment Temperature Measurement
  3. Cooler Compartments as Special Compartments
  4. Temperature Settings and Energy Use Calculations
  5. Volume Calculations
  6. Convertible Compartments
  G. Test Procedures for Coolers
  1. Ambient Temperature and Usage Factor
  2. Light Bulb Energy
  H. Non-Compressor Refrigeration Products
  1. Ambient Temperature for Non-Compressor Refrigeration Products
  2. Refrigeration System Cycles
  I. Extrapolation for Refrigeration Products
  J. Combination Cooler Refrigeration Product Test Procedures
  1. Ambient Temperature
  2. Usage Factor
  3. Temperature Control Settings and Energy Use Calculations
  K. Incidental Changes to Test Procedure Language To Improve Clarity
  L. Changes to Volume Measurement and Calculation Instructions
  M. Removal of Appendices A1 and B1
  N. Compliance With Other EPCA Requirements
  1. Test Burden
  2. Changes in Measured Energy Use
  3. Standby and Off Mode Energy Use
VII. Procedural Issues and Regulatory Review
  A. Review Under Executive Order 12866
  B. Review Under the Regulatory Flexibility Act
  C. Review Under the Paperwork Reduction Act of 1995
  D. Review Under the National Environmental Policy Act of 1969
  E. Review Under Executive Order 13132
  F. Review Under Executive Order 12988
  G. Review Under the Unfunded Mandates Reform Act of 1995
  H. Review Under the Treasury and General Government Appropriations Act, 1999
  I. Review Under Executive Order 12630
  J. Review Under Treasury and General Government Appropriations Act, 2001
  K. Review Under Executive Order 13211
  L. Review Under the Information Quality Bulletin for Peer Review
  M. Review Under Section 32 of the Federal Energy Administration Act of 1974
  N. Congressional Notification
VIII. Approval of the Office of the Secretary

I. Authority and Background

A. General Rulemaking Authority

Title III of the Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 6291, *et seq.;* "EPCA" or, in context, "the Act") sets forth a variety of provisions designed to improve energy efficiency. Part B of title III, which for editorial reasons was re-designated as Part A upon incorporation into the U.S. Code (42 U.S.C. 6291–

6309, as codified), establishes the "Energy Conservation Program for Consumer Products Other Than Automobiles." These products include refrigerators, refrigerator-freezers, and freezers, which are among the subjects of this document. (42 U.S.C. 6292(a)(1)) This document also addresses coolers (*e.g.,* wine coolers) and combination cooler-refrigeration products (*i.e.,* products that include warm compartments such as wine storage compartments in products that otherwise perform the functions of refrigerators, refrigerator-freezers, or freezers). DOE is establishing coverage for these products as MREFs in this document.

EPCA specifies a list of covered consumer products that includes refrigerators, refrigerator-freezers, and freezers. Although EPCA did not define any of these products, it specified that the extent of DOE's coverage would apply to those refrigerator, refrigerator-freezers, and freezers that can be operated by alternating current ("AC") electricity, but excluding those products that are designed to be used without doors, and, separately, those products that do not include a compressor and condenser unit as an integral part of the cabinet assembly. (42 U.S.C. 6292(a)(1)) EPCA did not preclude or otherwise foreclose the possibility that other consumer refrigeration products, such as those consumer refrigeration products addressed in this rulemaking, could also be covered separately if they satisfy certain prerequisites. EPCA, in fact, authorizes the Secretary of Energy to classify additional types of consumer products not otherwise specified in Part A as covered products. For a type of consumer product to be classified as a covered product, the Secretary must determine that:

(1) Classifying the product as a covered product is necessary for the purposes of EPCA; and

(2) the average annual per-household energy use by products of such type is likely to exceed 100 kilowatt-hours per year ("kWh/yr"). (42 U.S.C. 6292(b)(1)).

Before prescribing an energy conservation standard for products for which the Secretary has extended regulatory coverage through 42 U.S.C. 6292(b), the Secretary must determine that:

(1) The average household energy use of the products has exceeded 150 kWh per household for a 12-month period;

(2) the aggregate 12-month energy use of the products has exceeded 4.2 terawatt-hours ("TWh");

(3) substantial improvement in energy efficiency is technologically feasible; and

(4) application of a labeling rule under 42 U.S.C. 6294 is unlikely to be sufficient to induce manufacturers to produce, and consumers and other persons to purchase, covered products of such type (or class) that achieve the maximum energy efficiency that is technologically feasible and economically justified.

Any standards that the Secretary sets for products that are covered in this manner must also meet the requirements of 42 U.S.C. 6295(o) and (p). See 42 U.S.C. 6295(l)(1).

For those products for which coverage has been established under EPCA, the energy conservation program consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. The testing requirements consist of test procedures that manufacturers of covered products must use as the basis for (1) certifying to DOE that their products comply with the applicable energy conservation standards adopted under EPCA, and (2) making representations about the efficiency of those products. Similarly, DOE must use these test procedures to determine whether the products comply with any relevant standards promulgated under EPCA.

Under 42 U.S.C. 6293, EPCA sets forth the criteria and procedures DOE must follow when prescribing or amending test procedures for covered products. EPCA provides that any test procedures prescribed or amended under this section shall be reasonably designed to produce test results which measure energy efficiency, energy use or estimated annual operating cost of a covered product during a representative average use cycle or period of use and shall not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3))

In addition, if DOE determines that a test procedure amendment is warranted, it must publish proposed test procedures and offer the public an opportunity to present oral and written comments on them. (42 U.S.C. 6293(b)(2)) Finally, in any rulemaking to amend a test procedure, DOE must determine to what extent, if any, the proposed test procedure would alter the measured energy efficiency of any covered product as determined under the existing test procedure. (42 U.S.C. 6293(e)(1))

EPCA further requires that any new or amended DOE test procedure for a covered product integrate measures of standby mode and off mode energy consumption into the overall energy efficiency, energy consumption, or other energy descriptor, unless the current test procedure already incorporates the standby mode and off mode energy consumption or such integration is technically infeasible. If an integrated test procedure is technically infeasible, DOE must prescribe a separate standby mode and off mode energy use test procedure for the covered product, if a separate test is technically feasible. (42 U.S.C. 6295(gg)(2)(A))

B. Current Rulemaking Process

On November 8, 2011, DOE published a notice of proposed determination of coverage ("NOPD") to address the potential coverage of consumer refrigeration products without compressors in anticipation of a rulemaking to address these and related consumer refrigeration products. 76 FR 69147.

On February 23, 2012, DOE began a scoping process to set potential energy conservation standards and test procedures for wine chillers, consumer refrigeration products that operate without compressors, and consumer ice makers by publishing a notice of public meeting, and providing a framework document that addressed potential standards and test procedure rulemakings for these products. 77 FR 7547.

On October 31, 2013, DOE published in the **Federal Register** a supplemental notice of proposed determination of coverage ("2013 SNOPD") in which it tentatively determined that MREFs, which at the time included wine chillers, non-compressor refrigeration products, hybrid products (*i.e.,* refrigeration products that combine a wine chiller with a refrigerator and/or freezer), and consumer ice makers, would likely satisfy the provisions of 42 U.S.C. 6292(b)(1). 78 FR 65223.

DOE published a notice of public meeting that also announced the availability of a preliminary technical support document ("TSD") for MREFs on December 3, 2014 ("Preliminary Analysis"). 79 FR 71705. This Preliminary Analysis considered potential standards for those products DOE proposed to cover in its 2013 SNOPD. DOE held a public meeting to discuss and receive comments on the Preliminary Analysis, which covered the analytical framework, models, and tools that DOE used to evaluate potential standards; the results of preliminary analyses performed by DOE for these products; the potential energy conservation standard levels derived from these analyses that DOE had been considering consistent with its obligations under EPCA; and all other issues raised relevant to the development of energy conservation standards for the different categories of MREFs.

DOE also published a test procedure NOPR on December 16, 2014 ("Test Procedure NOPR"), proposing definitions and test procedures for MREFs, including the product categories addressed in the 2013 SNOPD. See 79 FR 74894. The proposed test procedures, which would be included at title 10 of the CFR, part 430, subpart B, appendix A ("appendix A"), detailed how to measure MREF energy efficiency, energy use, and estimated annual operating cost during a representative average use period. In DOE's view, the procedure would, consistent with 42 U.S.C. 6293(b)(3), not be unduly burdensome to conduct.

After reviewing the comments received in response to both the Preliminary Analysis and the Test Procedure NOPR, DOE ultimately determined that its efforts at developing test procedures and potential energy conservation standards for these products would benefit from the direct and comprehensive input provided through the negotiated rulemaking process. On April 1, 2015, DOE published a notice of intent to establish a Working Group under the Appliance Standards and Rulemaking Federal Advisory Committee ("ASRAC") that would use the negotiated rulemaking process to discuss and, if possible, reach consensus recommendations on the scope of coverage, definitions, test procedures, and energy conservation standards for MREFs. 80 FR 17355. Subsequently, DOE formed a Miscellaneous Refrigeration Products Working Group ("MREF Working Group" or, in context, "the Working Group") to address these issues. The Working Group consisted of 15 members, including two members from ASRAC and one DOE representative. Table I.1 summarizes the MREF Working Group members. The MREF Working Group met in-person during six sets of meetings held in 2015 on May 4–5, June 11–12, July 15–16, August 11–12, September 16–17, and October 20.

TABLE I.1—MREF WORKING GROUP MEMBERS

Represented organization	Organization type	ASRAC member
Earthjustice	Efficiency Organization	No.
GE	Manufacturer	No.
AHAM	Trade Association	Yes.
Traulsen	Manufacturer	No.
Department of Energy	Government	No.
True Manufacturing	Manufacturer	Yes.
Southern California Edison	Utility	No.
U-Line Corporation	Manufacturer	No.
Appliance Standards Awareness Project	Efficiency Organization	No.
Whirlpool Corporation	Manufacturer	No.
Haier America	Manufacturer	No.
Mile High Equipment LLC	Manufacturer	No.
Scotsman Ice Systems	Manufacturer	No.
Hoshizaki America, Inc.	Manufacturer	No.
Sub-Zero Group, Inc.	Manufacturer	No.

On August 11, 2015, the MREF Working Group reached consensus on a term sheet that recommended the relevant scope of coverage, definitions, and test procedures for MREFs. See public docket EERE–2011–BT–STD–0043–0113 ("Term Sheet #1"). On October 20, 2015, the MREF Working Group reached consensus on a term sheet to recommend energy conservation standards for coolers and combination cooler refrigeration products. See public docket EERE–2011–BT–STD–0043–0111 ("Term Sheet #2"). ASRAC approved both term sheets during separate public meetings on December 18, 2015, and January 20, 2016, and sent them to the Secretary of Energy for further consideration. Although many of the MREF Working Group members commented on topics related to MREF coverage, definitions, and the test procedure in response to the Test Procedure NOPR, the Working Group members further discussed these concerns during the MREF Working Group meetings. As a result of these discussions, many Working Group members adjusted their positions from the comments initially submitted in response to the Test Procedure NOPR. Consequently, DOE's discussion in this document reflects the latest views of these Working Group members. These views are contained in summaries of the Working Group discussions and recommendations in the relevant sections of this document.

On March 4, 2016, DOE published a SNOPD proposing a scope of coverage and definitions for MREFs consistent with the recommendations of the MREF Working Group ("2016 SNOPD"). See 81 FR 11454. That document proposed that coolers and combination cooler refrigeration products would be considered covered products under EPCA, as well as definitions for these product categories and additional subcategories. DOE received comments in response to the 2016 SNOPD, but none that would alter its proposed determination; therefore, DOE is classifying MREFs as a covered product in this final rule. Specific comments received in response to the 2016 SNOPD are discussed in the relevant sections of this document.

II. Summary of the Final Rule

DOE has determined that MREFs, the definition of which DOE is adding to 10 CFR 430.2 and discusses in this notice, meet the statutory requirements under 42 U.S.C. 6292(b)(1), and is classifying them as a covered product. DOE has also determined that MREFs satisfy at least two of the four criteria required under EPCA in order for the Secretary to set standards for a product whose coverage is added pursuant to 42 U.S.C. 6292(b). DOE will determine if MREFs satisfy the other two provisions of 42 U.S.C. 6295(l)(1) during the course of the energy conservation standards rulemaking.[1]

In addition to establishing coverage over MREFs and determining that these products satisfy the necessary criteria under 42 U.S.C. 6295(l) for DOE to set energy conservation standards for them, this rule establishes test procedures for MREFs and establishes or clarifies a number of definitions necessary to identify and distinguish MREFs from other currently covered products. MREFs include coolers (*e.g.,* wine chillers) and combination cooler refrigeration products (*i.e.,* products that include at least one warm-temperature compartment combined with a fresh food and/or freezer compartment). Although the 2013 SNOPD and the Test Procedure NOPR proposed coverage and testing provisions, respectively, for non-compressor refrigerators and ice makers, this final rule does not establish coverage or test procedures for these products.

---

[1] On *www.regulations.gov*, see docket ID EERE–2011–BT–STD–0043 for information regarding the energy conservation standards rulemaking.

With respect to the definitions addressed in this document, DOE is finalizing a series of definitions for consumer refrigeration products generally consistent with those proposed in the 2016 SNOPD. Accordingly, this final rule establishes or revises definitions for a variety of terms to help ensure their compatibility with the changes introduced by the coverage of MREFs and to clarify their application to MREFs and other currently regulated refrigeration products (*i.e.,* refrigerators, refrigerator-freezers, and freezers). This final rule also moves the "all-refrigerator" definition from its current location in appendix A to 10 CFR 430.2, establishes a definition for "cooler-all-refrigerator" in 10 CFR 430.2, establishes a definition for "cooler compartment" in appendix A, and revises the existing "special compartment" definition in appendix A.

This final rule also establishes test procedures for coolers that address testing set-up, temperature control adjustment, volume measurements, energy use measurements, and calculations. These test procedures are similar to the test procedures in appendix A for refrigerators, but apply a different compartment standardized temperature (55 degrees Fahrenheit (°F) instead of 39 °F for refrigerators) and usage adjustment factor (0.55 instead of 1.0 for refrigerators). These differences reflect the different consumer use for coolers as compared to refrigerators.

Additionally, this final rule also establishes test procedures for combination cooler refrigeration products that take effect on the compliance date of any energy conservation standards established for combination cooler refrigeration products. Until that date, combination cooler refrigeration products are required to comply with the existing refrigerator, refrigerator-freezer, and freezer energy conservation standards based on testing according to the relevant test procedure waivers. The test procedures established in this final rule include temperature settings, volume measurements and calculations, and measuring and calculating energy use for these products. Similar to the test procedures established for coolers, cooler compartments within combination cooler refrigeration products are tested to a standardized compartment temperature of 55 °F with a usage adjustment factor of 0.55.

In addition, DOE is establishing a new section, 10 CFR 430.23(dd), to include the test procedures for coolers and combination cooler refrigeration products. All of the detailed provisions for testing these products are incorporated in appendix A. Although coolers and combination cooler refrigeration products are covered separately from refrigerators and refrigerator-freezers, there are many similarities among these products that warrant similar test methods. Therefore, DOE is amending appendix A to incorporate testing provisions for coolers and combination cooler refrigeration products rather than establishing a separate appendix for them. However, as described in the previous paragraph, the testing provisions for combination cooler refrigeration products do not take effect until the compliance date of MREF energy conservation standards.

Test methods for freezers continue to be found at 10 CFR part 430, appendix B ("appendix B"), which DOE is not amending for testing MREFs. However, DOE is amending appendix B to incorporate additional clarifications to the test procedure consistent with the changes being made to appendix A in this final rule.

The amendments to appendix A established in this final rule primarily reflect the proposals from the Test Procedure NOPR. However, DOE has revised parts of the Test Procedure NOPR proposal based on feedback from the MREF Working Group.[2] The MREF Working Group recommended test procedures are found in Term Sheet #1 (see p. 2).

In addition to the specific MREF test procedures in this final rule, DOE is also amending the test procedures to: (1) Address minor technical corrections needed in appendices A and B; (2) improve testing clarity; (3) incorporate volume measurement guidance; (4) remove provisions for externally-vented products; (5) introduce rounding requirements; and (6) remove the previous (and obsolete) test procedures found at 10 CFR part 430, subpart B, appendix A1 and appendix B1.

When amending a test procedure, DOE typically determines the extent to which its proposal would alter the measured energy efficiency of any covered product as determined under the existing test procedure. (42 U.S.C. 6293(e)(1)) DOE notes that DOE has not yet established energy conservation standards for the products that are the focus of this rule (*i.e.,* coolers and combination cooler refrigeration products). Hence, there would be no change in measured energy efficiency by an amendment to a test procedure. For currently covered consumer refrigeration products (refrigerators, refrigerator-freezers, and freezers), the clarifying amendments to appendices A and B established in this final rule would not result in a change in measured energy use compared to the existing test procedures.

DOE notes that certain combination cooler refrigeration products, according to the definitions established in this rule, are currently certified for compliance with the existing refrigerator, refrigerator-freezer, and freezer energy conservation standards based on testing according to test procedure waivers.[3] To ensure that these products continue to satisfy a minimum level of energy efficiency, these products would continue to be treated as refrigerators, refrigerator-freezers, or freezers (as applicable) until the compliance date of energy conservation standards established for MREFs. On that date, these products would no longer be within the scope of the definitions of refrigerators, refrigerator-freezers, or freezers, and would only be subject to the relevant MREF test procedures and standards. Accordingly, they would no longer be required to comply with the existing refrigerator, refrigerator-freezer, or freezer regulations, and any granted waivers or interim waivers would no longer apply.

For coolers, manufacturers may, on a voluntary basis, make representations of energy use starting on August 17, 2016 according to the provisions in appendix A established in this final rule. For combination cooler refrigeration products, manufacturers must use the test procedures in appendix A for all representations of energy use on or after the compliance date of any energy conservation standards for these products. For all other miscellaneous refrigeration products (*e.g.*, coolers), manufacturers must use the test procedures in appendix A for all representations of energy use on or after January 17, 2017.

---

[2] See, for example, the intermediate drafts at documents 59 and 68 in docket ID EERE–2011–BT–STD–0043 on *www.regulations.gov.*

[3] See, for example, the interim waiver granted to Panasonic Appliances Refrigeration Systems Corporation of America (PAPRSA) on January 26, 2016. 81 FR 4270.

Table II.1 describes the amendments proposed in the Test Procedure NOPR and the final amendments established in this final rule.

TABLE II.1—SUMMARY OF PROPOSED CHANGES AND AFFECTED SECTIONS OF 10 CFR

Affected sections	NOPR proposal	Final rule action
	Part 429	
§ 429.14	Revise section header, clarify volume determinations, introduce rounding requirements, clarify product category determinations.	Finalized as proposed with additional clarifications, except product category determination would be based on operation in a 90 °F ambient temperature.
§ 429.61	Establish sampling plan, certification report requirements, rounding requirements, and product category determinations for MREFs.	Finalized sampling plan, certification report, and rounding requirements with additional clarifications; revised product category determination based on operation in a 90 °F ambient temperature.
§ 429.72	Allow for use of computer-aided design models to determine MREF volumes.	Finalized as proposed.
§ 429.134	Update refrigerator, refrigerator-freezer, and freezer provisions to include rounding requirements; establish enforcement provisions for MREFs.	Finalized as proposed.
	Part 430	
§ 430.2	Establish product definitions for MREFs and amend existing refrigerator, refrigerator-freezer, and freezer definitions for similar structure.	Finalized as proposed with updates to definitions and coverage as recommended by the MREF Working Group; clarified timing between refrigerator, refrigerator-freezer, and freezer and combination cooler refrigeration product definitions (formerly hybrid refrigeration products).
§ 430.3	Remove reference to outdated industry standard	Finalized as proposed.
§ 430.23	Modify test procedures sections to address the amendments to the refrigerator, refrigerator-freezer, and freezer appendices; insert new section to address MREFs and clarify application of appendices to products without vapor-compression refrigeration systems.	Finalized as proposed for sections (a) and (b); section (dd) finalized as proposed with updates to reflect revised scope of coverage.
	Part 430, Subpart B, Appendix A	
1. Definitions	Include "cellar compartment" definition	Updated to "cooler compartment" and incorporated MREF Working Group feedback.
	Establish definition for "compartment"	Excluded from final amendments.
	Add "multiple refrigeration system product" definition	Finalized as proposed.
	No specific proposal	Added clarification to "special compartment" definition per feedback from the MREF Working Group and related recommendation.
2. Test Conditions	Establish test conditions for MREFs consistent with existing refrigerator and refrigerator-freezer requirements, except for testing in a 72 °F ambient for non-compressor coolers.	Finalized as proposed except that all ambient temperatures for testing shall be 90 °F.
3. Test Control Settings.	Add a standardized cooler compartment temperature of 55 °F and otherwise follow existing control settings requirements.	Finalized as proposed.
4. Test Period	No proposal	Inserted missing Figure 1 and updated language to general compartment references (to include cooler compartments).
5. Test Measurements	Measure temperatures for MREFs consistent with existing appendix A requirements.	Finalized as proposed.
	Establish usage factors of 0.55 for vapor-compression coolers, 1.2 for non-compressor coolers, 0.85 for combination cooler refrigeration products.	Established 0.55 usage factor for all MREFs.
	Incorporate MREFs into existing requirements	Finalized as proposed.
6. Calculations	Include volume adjustment factor of 0.69 for cooler compartments in combination cooler refrigeration products.	Volume adjustment factor of 1.0 for all cooler compartments.
	Incorporate MREFs into existing calculations based on 55 °F standardized cooler compartment temperature.	Finalized as proposed.
	Remove provisions for externally-vented products	Finalized as proposed.
	Part 430, Subpart B, Appendices A and B	
1. Definitions	Eliminate definition numbering	Finalized as proposed.
2. Test Conditions	Clarify movable subdividing barrier positions	Finalized as proposed.

TABLE II.1—SUMMARY OF PROPOSED CHANGES AND AFFECTED SECTIONS OF 10 CFR—Continued

Affected sections	NOPR proposal	Final rule action
3. Test Control Settings.	Use extrapolation approach for compartments unable to maintain standardized temperatures.	No energy use rating for models unable to maintain standardized temperatures (would require a manufacturer to seek and justify an application for a test procedure waiver).
5. Test Measurements	Clarify temperature measurement requirements	Finalized as proposed.
	Incorporate volume measurement guidance	Finalized as proposed.
5 and 6	Include volume rounding requirements	Finalized as proposed, with note that rounding is not required for refrigerators, refrigerator-freezers, and freezers until the compliance date of any amended energy conservation standards for those products.
6. Calculations	Refer to different temperature setting tests as "tests" rather than "test periods".	Finalized as proposed.
7. Test Procedure Waivers.	Revise text to general terms that would include MREFs	Finalized as proposed.
Part 430, Subpart B, Appendices A1 and B1		
	Remove obsolete appendices	Finalized as proposed.

III. Scope of Coverage

In response to the feedback received from interested parties on the Preliminary Analysis and Test Procedure NOPR, the MREF Working Group was tasked with recommending a scope of coverage for MREFs. To this end, the Working Group's Term Sheet #1 recommended that DOE not include two product categories for which it had proposed coverage in the 2013 SNOPD (and for which DOE proposed test procedures in the Test Procedure NOPR): Non-compressor refrigerators and icemakers. See Term Sheet #1.

DOE proposed in the 2016 SNOPD that MREF coverage would apply only to coolers and combination cooler refrigeration products, consistent with the MREF Working Group recommendation, and proposed definitions for these product categories. DOE agreed with Working Group members that consumer ice makers are significantly different from the other product categories considered for coverage under MREFs, and, therefore, proposed to exclude them from MREF coverage. Additionally, DOE did not propose a separate product category for non-compressor refrigerators because it was not aware of any such products available on the market. See 81 FR 11454, 11456.

The Appliance Standards Awareness Project ("ASAP") and Earthjustice (jointly referred to as "Joint Commenters"); Pacific Gas and Electric Company ("PG&E"), Southern California Gas Company ("SCGC"), Southern California Edison ("SCE"), and San Diego Gas and Electric Company ("SDG&E") (jointly referred to as the "California Investor-Owned Utilities (IOUs)"); and the Association of Home Appliance Manufacturers ("AHAM") agreed with DOE's proposed scope of coverage for MREFs, which included coolers and combination cooler refrigeration products, but excluded ice makers. (Joint Commenters, No. 23 at p. 1; California IOUs, No. 25 at p. 1; AHAM, No. 24 at p. 2)[4]

Because interested parties supported the 2016 SNOPD's proposed scope of coverage, DOE is establishing that MREFs be defined as consumer refrigeration products other than refrigerators, refrigerator-freezers, or freezers, and which include coolers and combination cooler refrigeration products, as discussed further in this document.

IV. Evaluation of Miscellaneous Refrigeration Products as Covered Products

In order for MREFs to be classified as a covered product, they are required to satisfy certain statutory criteria. As stated earlier in this notice, DOE may classify a consumer product as a covered product if (1) classifying products of such type as covered products is necessary and appropriate to carry out the purposes of EPCA; and (2) the average annual per household energy use by products of such type is likely to exceed 100 kWh (or its Btu equivalent) per year. (42 U.S.C. 6292(b)(1))

A. Coverage Necessary or Appropriate To Carry Out Purposes of EPCA

In this document, DOE has determined that the coverage of MREFs is both necessary and appropriate to carry out the purposes of EPCA. MREFs, which comprise a small but significant and growing sector of the consumer refrigeration market, consume energy generated from limited energy supplies and regulating their energy efficiency would be likely to help conserve these limited energy supplies. As a coverage determination is a prerequisite to establishing standards for these products, classifying MREFs as a covered product is clearly necessary and appropriate to carry out EPCA's purposes to: (1) Conserve energy supplies through energy conservation programs; and (2) provide for improved energy efficiency of major appliances and certain other consumer products. (42 U.S.C. 6201)

B. Energy Use Estimates

In the 2016 SNOPD, DOE estimated the average household energy use for MREFs—coolers and combination cooler refrigeration products. Because these products were included in the proposed definition of "miscellaneous refrigeration products," their estimated average household energy use provides a conservative estimate of whether the average annual per-household energy use of MREFs exceeds 100 kWh/yr, as required for coverage under EPCA. DOE presented these results and a detailed discussion of the methodology used for the analysis in Section IV.B of the 2016 SNOPD. 81 FR at 11456–11457.

1. Coolers

DOE used market data, engineering models, and manufacturer feedback received under non-disclosure agreements and during the MREF Working Group meetings to estimate average household energy use for coolers. In the 2016 SNOPD, DOE organized the analysis for consistency with the scope of coverage and product definitions recommended by the MREF Working Group. The cooler definition proposed in the 2016 SNOPD would incorporate products, regardless of refrigeration system, under the same definition. Additionally, DOE proposed four product categories within the cooler definition based on refrigerated volume and installation configuration. The analysis conducted for the 2016 SNOPD separated coolers into these four product categories. 81 FR at 11456–11457.

---

[4] A notation in the form "Joint Commenters, No. 23 at p. 1" identifies a written comment: (1) Made by the Joint Commenters; (2) recorded in document number 23 that is filed in the coverage determination docket (Docket No. EERE–2011–BT–DET–0072) and available for review at *www.regulations.gov*; and (3) which appears on page 1 of document number 23.

Table IV.1 shows the estimated annual energy use for each category of cooler analyzed in the 2016 SNOPD. DOE found that across all cooler categories, coolers have an average lifetime of over 10 years and an average annual energy consumption of 440 kWh per household. *Id.*

TABLE IV.1—2016 SNOPD COOLERS ESTIMATED ANNUAL ENERGY USE

	Units	Product type				Totals or averages
		Compact FS *	Compact BI *	FS *	BI *	
Average Energy Consumption (per unit).	kWh/yr	450	250	370	340	440
Stock	Units, 2014	14,500,000	55,000	610,000	120,000	15,300,000
National Energy Consumption	TWh/yr	6.5	0.014	0.23	0.042	6.8
Average Lifetime	Years	10.3	10.3	17.4	17.4	10.6
Annual Sales	Units, 2014	1,400,000	5,400	35,000	7,100	1,460,000
Saturation	%	12.6	0.05	0.5	0.1	

* FS = Freestanding, BI = Built-in.

DOE received no comments on the methodology or analysis used in the 2016 SNOPD to estimate cooler energy use. Therefore, DOE has maintained the cooler analysis as presented in the 2016 SNOPD and in Table IV.1 for this final determination.

2. Combination Cooler Refrigeration Products

DOE used market data, engineering models, and manufacturer feedback received under non-disclosure agreements and during the MREF Working Group meetings to estimate average household energy use for combination cooler refrigeration products. Similar to the updated coolers analysis, DOE revised its combination cooler refrigeration product analysis in the 2016 SNOPD to be consistent with the scope of coverage and product definitions recommended by the MREF Working Group. For example, the definition of combination cooler refrigeration product proposed in the 2016 SNOPD removed the 50-percent cooler compartment volume requirement originally proposed in the 2013 SNOPD. DOE also updated its estimates of annual shipments, product lifetimes, and energy consumption per unit for these products based on manufacturer feedback, recommendations from the MREF Working Group, and more recent product information. 81 FR at 11457.

Table IV.2 shows the estimated annual energy use for each category of combination cooler refrigeration product analyzed in the 2016 SNOPD. DOE found that across all categories, combination cooler refrigeration products have an average lifetime of 12.6 years and an average annual energy consumption of 222 kWh per household. *Id.*

TABLE IV.2—2016 SNOPD COMBINATION COOLER REFRIGERATION PRODUCTS ANNUAL ENERGY USE

	Units	Product type *				Totals or averages
		C3A–BI	C9–BI	C13A	C13A–BI	
Average Energy Consumption (per unit).	kWh/yr	210	280	210	220	220
Stock	Units, 2014	70,000	70,000	160,000	120,000	430,000
National Energy Consumption	TWh/yr	0.015	0.019	0.035	0.027	0.095
Average Lifetime	Years	17.4	17.4	10.3	10.3	12.6
Annual Sales	Units, 2014	4,000	4,000	16,000	12,000	36,000
Saturation		0.06%	0.06%	0.14%	0.11%	

* Product types for combination cooler refrigeration products are based on the product class of refrigerator, refrigerator-freezer, or freezer that the product would be categorized under if it did not have a cooler compartment.

DOE received no comments on the methodology or analysis used in the 2016 SNOPD to estimate combination cooler refrigeration product energy use. Therefore, DOE has maintained the combination cooler refrigeration product analysis as presented in the 2016 SNOPD and in Table IV.2 for this final determination.

3. Conclusions

Based on the evaluations summarized in Tables IV.1 and IV.2, the MREF categories examined by DOE consume significantly more than 100 kWh annually, which led DOE to tentatively determine in the 2016 SNOPD that these products would satisfy the average annual per household energy use threshold set by EPCA to classify a product as covered. 81 FR at 11457.

In response to the 2016 SNOPD, the Joint Commenters and California IOUs agreed with DOE's tentative determination that MREFs satisfy the energy consumption criteria for coverage under EPCA. (Joint Commenters, No. 23 at p. 1; California IOUs, No. 25 at p. 2) DOE received no comments challenging its tentative determination.

Based upon its evaluations of coolers and combination cooler refrigeration products, which DOE has not changed since the 2016 SNOPD analysis, DOE has determined that these products, on average, are likely to exceed the 100 kWh/yr threshold set by EPCA to classify a product as covered. Moreover, DOE has determined that MREFs, on average, consume more than 150 kWh/yr, and that the aggregate annual national energy use of these products exceeds 4.2 TWh. Accordingly, these data indicate that MREFs satisfy at least two of the four criteria required under EPCA in order for the Secretary to set standards for a product whose coverage is added pursuant to 42 U.S.C. 6292(b). See 42 U.S.C. 6295(l)(1)(A)–(D).

V. Product Definitions

Consistent with the scope of coverage outlined in the 2013 SNOPD, the Test Procedure NOPR proposed definitions for the following four product categories that DOE indicated would be considered as MREFs: Cooled cabinets, non-compressor refrigerators, hybrid refrigerators, and ice makers. See 79 FR at 74899–74904.

The MREF Working Group subsequently discussed how and whether to define the various terms related to MREFs. The Working Group ultimately reached a consensus that is reflected in Term Sheet #1's recommendations, which included dropping DOE's proposed definitions for non-compressor refrigerators and ice makers, updating the terms used to describe the covered MREF product categories based on the discussions and analyses conducted during the Working Group meetings, revising the proposed MREF product definitions, and amending the existing definitions for refrigerators, refrigerator-freezers, and freezers to ensure consistency with the recommended MREF definitions. See Term Sheet #1.

Consistent with these recommendations, the 2016 SNOPD contained proposals for new and amended definitions that would be added to 10 CFR 430.2. DOE proposed new definitions to clearly delineate which products would fall within the MREF scope of coverage and to define the individual product categories comprising MREFs. DOE also proposed similar conforming amendments to the existing definitions for refrigerators, refrigerator-freezers, and freezers for consistency with the proposed MREF definitions. The proposed amendments were intended to eliminate confusion with the proposed MREF definitions, and would not affect the scope of coverage under the existing refrigerator, refrigerator-freezer, and freezer definitions, other than for those products that would fall under the combination cooler refrigeration products category. The proposed definitions generally followed the MREF Working Group recommendations with minor revisions to improve clarity. 81 FR at 11457–11461.

In response to the 2016 SNOPD, the Joint Commenters supported the proposed product definitions. (Joint Commenters, No. 23 at pp. 1–2) The California IOUs also stated that DOE should adopt the definitions from Term Sheet #1 to clearly delineate MREF products from those that are already considered covered products. (California IOUs, No. 25 at p. 2) Industry representatives raised specific concerns regarding particular aspects of the various definitions that DOE proposed. Those specific concerns are addressed in the sections that follow.

As described in section III of this notice, DOE is maintaining the scope of coverage for MREFs as proposed in the 2016 SNOPD. Therefore, DOE is establishing definitions for the same terms as proposed in the 2016 SNOPD. The following sections describe each of the new or amended definitions.

A. Coolers

In the 2016 SNOPD, DOE proposed to define the term "cooler" using the definition for "cooled cabinet" proposed in the Test Procedure NOPR as a starting point and updated to reflect the Working Group's recommendations (see Term Sheet #1). DOE proposed to define a "cooler" as a cabinet, used with one or more doors, that has a source of refrigeration capable of operating on single-phase, alternating current and is capable of maintaining compartment temperatures either no lower than 39 °F, or in a range that extends no lower than 37 °F but at least as high as 60 °F. The proposal also clarified that these compartment temperatures would be determined in a 90 °F ambient temperature. 81 FR at 11458–11459.

The California IOUs supported a definition for coolers that would not differentiate compressor-based coolers from non-compressor coolers. (California IOUs, No. 25 at p. 2)

AHAM commented that DOE should retain the language excluding products "designed to be used without doors" in the regulatory text, consistent with the wording included in the statutory language in 42 U.S.C. 6292(a)(1) and agreed upon by the MREF Working Group. (AHAM, No. 24 at pp. 3–4)

DOE notes that the term sheet expressly indicated that the definitions were in draft form and would be subject to further revision and modification. See Term Sheet #1, Appendix 2. This provision, which was presented in the beginning of the appendix in boldfaced-type, indicated that some modifications to these definitions were possible to enable DOE to ensure the clarity and consistency of its regulations.

In DOE's view, the proposed revisions to the Working Group's text would more clearly define the contours of what a "cooler" is. Specifically, by including the phrase "used with one or more doors," the definition states that a product must have at least one door in order to fall into the category. This phrasing, in addition to being clearer and more direct, accomplishes the same purpose as the language referenced by AHAM. Additionally, the revised text does not require a subjective determination as to the intent of a product's design. If a product is used with one or more doors, it would be considered a cooler regardless of the design intent. Therefore, DOE is maintaining the language of "used with one or more doors" in the cooler definition as well as the combination cooler refrigeration product category definitions established in this final rule.

AHAM also expressed concern that the proposed definitions state that compartment temperatures would be "as determined according to the provisions in § 429.61(d)(2) [proposed at 79 FR 74894 (December 16, 2014)]," which included a 72 °F ambient temperature for determining compartment temperatures. AHAM commented that DOE likely did not intend to suggest that it will finalize a rule that includes a 72 °F ambient temperature and that, instead, DOE plans to finalize a rule that will include a 90 °F ambient temperature in § 429.61(d)(2). AHAM stated that its support of the definitions containing that reference is contingent on that assumption, as it would strongly object to a 72 °F ambient temperature. (AHAM, No. 24 at p. 3) As noted in the Preamble of the 2016 SNOPD, DOE agreed with the MREF Working Group recommendation that compartment temperatures be determined in a 90 °F ambient temperature. 81 FR 11454, 11458. The requirements in § 429.61(d)(2) reference the MREF test procedure temperature measurements. In this final rule, DOE is establishing that compartment temperatures are determined in the test procedure in a 90 °F ambient temperature. Therefore, the definitions with references to § 429.61(d)(2) refer to operation in a 90

°F ambient temperature, as AHAM supported.

Liebherr Canada Ltd. (“Liebherr”) stated that it manufactures a humidor product for storing cigars that operates at storage temperatures between 61 °F and 68 °F, and that the product was designed exclusively for the storage of tobacco products in an optimal humidity condition. Although the proposed cooler definition did not refer to the storage of wine and other beverages, Liebherr noted that this phrase was included in the cooler compartment definition in Term Sheet #1. Liebherr commented that products such as its humidor should be excluded from coverage because they are not intended for cooling food or beverages and because they cannot maintain a 55 °F storage temperature. Liebherr suggested DOE implement a revised cooler definition that would require the product to be capable of maintaining a 55 °F storage temperature, noting that this requirement would not exclude any of the beverage center or wine cooler appliances as customers would not accept beverages as warm as or warmer than 55 °F. Additionally, Liebherr stated that including products that cannot reach 55 °F storage temperature would create excessive burden, as manufacturers would be required to obtain test procedure waivers for those products. (Liebherr, No. 21 at pp. 2–3)

In the 2016 SNOPD, DOE proposed a cooler definition that did not include the requirement that the product be designed for the storage of wine and other beverages to limit potential circumvention. By relying on quantifiable characteristics, such as compartment temperature, the proposed definition would allow a third-party to verify a product’s appropriate classification without knowledge of the manufacturer’s design intent. For that reason, DOE is not including reference to the storage of food or beverages in the cooler definition established in this final rule.

DOE also considered including the requirement that a product be able to maintain a 55 °F storage temperature in its cooler definition. However, as described in the Preliminary Analysis, DOE is aware of many products marketed for the storage of food and beverages that are not able to maintain 55 °F compartment temperatures when tested in a 90 °F ambient temperature. See chapter 3 of the preliminary TSD. Accordingly, including a 55 °F compartment temperature requirement in the cooler definition would exclude such products from being considered coolers subject to test procedures or any subsequent energy conservation standards. To avoid excluding these products from coverage, DOE is not including a 55 °F compartment temperature requirement in the cooler definition. Because humidors such as the one identified in the Liebherr comment meet the definition for cooler, they would be subject to DOE’s cooler test procedures and any energy conservation standards for coolers. For products that cannot maintain the standardized compartment temperatures required in the test procedure, manufacturers would have to apply for test procedure waivers according to 10 CFR 430.27 to establish an acceptable test procedure for each such product.

For the reasons explained above, DOE is adopting, without modifications, the definition of “cooler” proposed in the 2016 SNOPD.

The 2016 SNOPD also contained a proposal to provide additional definitions for four subcategories within the cooler definition based on refrigerated volume and configuration, consistent with the same requirements and definitions currently in place for refrigerators, refrigerator-freezers, and freezers. DOE proposed four categories of coolers: Freestanding coolers, freestanding compact coolers, built-in coolers, and built-in compact coolers. 81 FR at 11459. DOE did not receive any comments opposing these proposed cooler product categories proposed in 2016 SNOPD. Therefore, DOE is adopting its proposed definitions for these four product categories.

B. Combination Cooler Refrigeration Products

In the 2016 SNOPD, DOE proposed to define terms for combination cooler refrigeration products consistent with the MREF Working Group recommendations in Term Sheet #1, including “cooler-refrigerator,” “cooler-refrigerator-freezer,” and “cooler-freezer.” The proposed definitions addressed products that combine warm-temperature compartments, referred to as cooler compartments, with a fresh food and/or freezer compartment. Additionally, the proposed definitions did not require that the cooler compartment make up at least 50 percent of the product’s total refrigerated volume, as initially proposed in the definition for “hybrid refrigeration product” in the Test Procedure NOPR. Similar to the cooler definitions proposed in the 2016 SNOPD, the proposed combination cooler refrigeration product definitions included the requirements that the products be used with one or more doors, operate using single-phase, alternating current electric energy input, and maintain compartment temperatures as determined in a 90 °F ambient temperature. 81 FR at 11459.

The California IOUs supported the adoption of combination cooler refrigeration product definitions that would not exclude non-compressor products from coverage. (California IOUs, No. 25 at p. 2) Consistent with its proposal, DOE’s definitions for combination cooler refrigeration products do not exclude non-compressor products.

Similar to the discussion for coolers in section V.A of this rulemaking, AHAM questioned DOE’s proposal to include language in each of the combination cooler refrigeration product definitions specifying the use of one or more doors as well as the proposal that compartment temperatures be determined according to § 429.61(d)(2). (AHAM, No. 24 at pp. 3–4) For the reasons discussed in section V.A of this rulemaking, DOE is adopting the phrase “used with one or more doors” for each of the combination cooler refrigeration product definitions, as proposed in the 2016 SNOPD, and is establishing in this final rule that the provisions in § 429.61(d)(2) refer to testing in a 90 °F ambient temperature.

Additionally, AHAM and Sub Zero Group, Inc. (“Sub Zero”) separately objected to DOE’s proposal to remove references to 8 °F that were contained in the definitions for cooler-refrigerator and cooler-refrigerator-freezer. (AHAM, No. 24 at pp. 2–3; Sub Zero, No. 22 at pp. 1–2) DOE proposed definitions for combination cooler refrigeration products that were consistent with the definitions proposed for the non-MREF product types (refrigerators, refrigerator-freezers, and freezers), but with the requirement that they include a cooler compartment. As discussed elsewhere in this document, DOE determined that the proposed temperature updates in the refrigerator and refrigerator-freezer definitions are not necessary to differentiate the existing product definitions from the new MREF definitions. Therefore, DOE is revising its 2016 SNOPD proposal and establishing the original reference to 8 °F in the definitions for refrigerator and refrigerator-freezer. For consistency, DOE is also establishing 8 °F as the reference temperature in the definitions for cooler-refrigerator and cooler-refrigerator-freezer.

AHAM also noted that the 2016 SNOPD did not consistently revise the Celsius temperature references associated with the proposed change from 8 °F to 0 °F. (AHAM, No. 24 at p. 3) DOE has revised the definitions proposed in the 2016 SNOPD as described in the previous paragraph, and has incorporated the correct Celsius temperature references in this final rule.

As discussed in section V.C of this document, DOE is amending the relevant refrigerator definitions to exclude products that operate within the temperature ranges used to define coolers. This revision would avoid the possibility that a product could be considered both a cooler and a refrigerator. The relevant combination cooler refrigeration product definitions use similar language in describing the non-cooler compartments which will help avoid potential overlapping definitions.

Other than these temperature-related changes, DOE is establishing the cooler-refrigerator, cooler-refrigerator-freezer, and cooler-freezer definitions as proposed in the 2016 SNOPD.

As discussed in the 2016 SNOPD, DOE refers to the term "cooler compartment" but offered no definition for this term, indicating instead that this term would be defined through the separate MREF test procedure rulemaking. See 81 FR at 11457–11459. Additionally, AHAM commented that the MREF Working Group also defined the terms "cooler-all-refrigerator" and "all-refrigerator" in Term Sheet #1, but that these definitions were not present in the 2016 SNOPD. AHAM recommended that these definitions be included in the test procedure final rule. (AHAM, No. 24 at p. 4)

DOE proposed in the Test Procedure NOPR to move the definition for "all-refrigerator" from appendix A to 10 CFR 430.2. 79 FR at 74901. The MREF Working Group supported this proposal, and DOE is incorporating this change in this final rule. DOE is similarly establishing a definition for "cooler-all-refrigerator" in 10 CFR 430.2, consistent with the MREF Working Group recommendation.

DOE did not propose in the 2016 SNOPD definitions that would be included in appendix A. In this final rule, DOE is establishing a definition for "cooler compartment" (instead of the term "cellar compartment" as used in the Test Procedure NOPR) in appendix A as a refrigerated compartment designed exclusively for wine or other beverages within a consumer refrigeration product that is capable of maintaining compartment temperatures either (a) no lower than 39 °F (3.9 °C), or (b) in a range that extends no lower than 37 °F (2.8 °C) but at least as high as 60 °F (15.6 °C). The temperature ranges in this definition are consistent with the Test Procedure NOPR proposal and the temperature ranges used to define coolers, as discussed in section V.A of this document. Consistent with the other definitions established in this document, DOE is establishing that the compartment temperature ranges be determined in a 90 °F ambient temperature. Additionally, the inclusion of an explanation that a cooler compartment is designed exclusively for wine or other beverages clarifies the differences between a cooler compartment and a special compartment. DOE is similarly amending the definition of "special compartment" in appendix A to exclude cooler compartments, consistent with the MREF Working Group's recommendation.

C. Refrigerators, Refrigerator Freezers, and Freezers

In the 2016 SNOPD, DOE proposed several changes to the existing definitions for "refrigerator," "refrigerator-freezer," and "freezer" to establish a similar structure with the proposed MREF definitions, improve their clarity, and eliminate potential overlap among these definitions.[5] DOE did not propose to redefine the scope of coverage for these products or to amend the definitions in a manner that would affect how a currently covered product would be classified (other than to treat combination cooler refrigeration products as MREFs). The proposals were consistent with the MREF Working Group recommendations except for the changes described earlier (*i.e.*, revising references to 8 °F to 0 °F for freezer compartment temperatures and inclusion of "used with one or more doors" language). DOE also proposed to eliminate the redundant terms "electric refrigerator" and "electric refrigerator-freezer" from 10 CFR 430.2. 81 FR at 11459–11460.

As it did in its comments on DOE's proposed "cooler" definition, see supra section V.A, AHAM questioned DOE's use of language in the definition that would specify that products falling into one of the refrigeration product categories be those products that are equipped with one or more doors. AHAM also questioned the proposal's inclusion of a requirement that compartment temperatures be determined according to § 429.61(d)(2). (AHAM, No. 24 at pp. 3–4) For the reasons discussed in section V.A of this document, DOE is adopting the phrase "used with one or more doors" for each of the existing refrigeration product definitions, as proposed in the 2016 SNOPD, and is establishing that § 429.61(d)(2) refers to testing in a 90 °F ambient temperature.

Also as noted in section V.B of this document, AHAM and Sub Zero opposed DOE's proposal to remove references to 8 °F in the definitions for cooler-refrigerator, cooler-refrigerator-freezer, refrigerator, and refrigerator-freezer. They noted that this change was not consistent with the MREF Working Group's recommendation of amending the refrigerator, refrigerator-freezer, and freezer definitions only as necessary to clarify the differentiation with new MREF definitions. AHAM and Sub Zero stated that the proposed definition would alter the scope of coverage for those products, noting that the existing definition requires that a compartment be capable of maintaining temperatures below 8 °F and may be adjusted to 0 °F. Specifically, AHAM commented that the proposed definition could create a situation where products that are now considered refrigerator-freezers could change to refrigerators, or that some products (depending on defrost type) may no longer have an applicable product class and would require waivers. (AHAM, No. 24 at pp. 2–3; Sub Zero, No. 22 at pp. 1–2)

DOE proposed the revised temperature structure to align the proposed definitions with the test procedure to limit the possibility of a product meeting the definition requirements but not being able to be tested. However, DOE acknowledges that this revision is not directly related to improving clarity or establishing consistency with respect to the new MREF product definitions. Accordingly, DOE determined that this potential issue would be more appropriately addressed during a rulemaking specific to refrigerators, refrigerator-freezers, and freezers. Therefore, DOE is establishing references to 8 °F for the freezer compartment temperature requirements in the definitions for refrigerators and refrigerator-freezers, and in the associated combination cooler refrigeration product definitions.

DOE is, however, establishing an additional amendment to the existing definitions for refrigerators, refrigerator-freezers, and freezers. The temperature ranges used to define coolers overlap with those used to define refrigerators, which may lead to uncertainty regarding appropriate product classification (*i.e.*, products with compartments capable of maintaining temperatures between 37 °F and 39 °F and as high as 60 °F would meet both the cooler and existing refrigerator definitions). As originally discussed in the Test Procedure NOPR, DOE observed that products with compartment temperatures that reach no lower than 37 °F but that can also reach at least as high as 60 °F are more appropriately classified as coolers instead of refrigerators. 79 FR 74894, 74901–74902. To eliminate uncertainty in product classification, DOE is amending the refrigerator and related definitions to clarify that products that meet the cooler temperature ranges are excluded from the refrigerator and related definitions. However, DOE is clarifying that these exclusions take effect on the compliance date of any energy conservation standards for combination cooler refrigeration products.

---

[5] The current definitions for "refrigerator," "refrigerator-freezer," and "freezer" are found under the definitions for "electric refrigerator," "electric refrigerator-freezer," and "freezer" found in 10 CFR 430.2.

In clarifying their application, DOE notes that the phrase "must comply with an applicable miscellaneous refrigeration product energy conservation standard" used in the definitions of refrigerator, freezer, and refrigerator-freezer adopted in this rule is intended to more clearly express the same meaning as if the term "subject to an applicable energy conservation standard," as that term is used in 10 CFR 429.12, were used. In other words, the variation of the term adopted here is not intended to convey a different meaning than if the term used in 10 CFR 429.12 were used.

In sum, other than the clarifying revisions noted earlier, DOE is amending the definitions for refrigerator, refrigerator-freezer, and freezer in a manner consistent with the 2016 SNOPD proposal.

D. General Terms for the Groups of Products Addressed in This Rule

In the 2016 SNOPD, DOE proposed to define the terms "miscellaneous refrigeration product" and "consumer refrigeration product" in a manner consistent with the MREF Working Group recommendations in Term Sheet #1. "Miscellaneous refrigeration product" would refer to a consumer refrigeration product other than a refrigerator, refrigerator-freezer, or freezer, which includes coolers and combination cooler refrigeration products. "Consumer refrigeration product" would refer to a refrigerator, refrigerator-freezer, freezer, or miscellaneous refrigeration product. These proposed terms would allow for simpler references when referring to the groups of products addressed in this final determination.

DOE did not receive any comments on the proposed definitions for "miscellaneous refrigeration product" and "consumer refrigeration product" in response to the 2016 SNOPD. Therefore, DOE is establishing the definitions as proposed in the 2016 SNOPD in this final rule.

Additionally, because DOE has determined that MREFs meet the criteria for coverage under EPCA, as discussed in section IV of this final determination, DOE is amending the definition of "covered product" in 10 CFR 430.2 to include MREFs.

VI. Test Procedure Discussion

A. Test Procedure Sections and Appendices Addressing the Newly Covered Products

In the Test Procedure NOPR, DOE proposed to modify appendix A to incorporate provisions that would address the test procedures for coolers and combination cooler refrigeration products. 79 FR at 74904. DOE did not receive any comment on this proposal, and is amending appendix A to include the testing requirements for all newly covered MREFs, as proposed in the Test Procedure NOPR.

DOE also proposed in the Test Procedure NOPR to amend both appendices A and B to improve their clarity and incorporate minor technical corrections. 79 FR 74894. Comments received on these provisions are addressed in the following discussion sections. After considering these comments, DOE is adopting these additional amendments for both appendices A and B to improve clarity and to maintain consistency between the two related test procedures.

B. Elimination of Definition Numbering in the Appendices

Appendices A, B, A1, and B1 each include an introductory section ("Section 1") that defines terms that are important for describing the test procedures for these products. These sections are currently numbered such that each definition has a unique sub-section number. In the Test Procedure NOPR, DOE explained that because the definitions are all listed in alphabetical order, the current organizational structure is unnecessary. To improve the readability of these sections and to limit confusion from renumbering when definitions are added or removed, DOE proposed to eliminate the sub-section numbering to simplify the structure of these sections of the appendices. 79 FR at 74904–74905.

DOE did not receive any comments regarding this aspect of its Test Procedure NOPR proposal, and is removing the section numbering for definitions from appendices A and B in this final rule. DOE is not making a corresponding change to appendices A1 and B1 because, as described in section VI.M of this document, DOE is removing these appendices from the CFR because they are no longer relevant.

C. Removal of Provisions for Externally-Vented Products

In the Test Procedure NOPR, DOE proposed removing provisions related to externally-vented products from appendix A to help simplify and improve the appendix's clarity. These changes entailed the removal of a number of provisions, including certain definitions, testing conditions, measurements, and calculations relevant to these products. DOE also proposed to remove all references to externally-vented products from the regulatory text in § 430.23(a) of subpart B. 79 FR at 74905.

DOE did not receive any comments in response to the Test Procedure NOPR proposal on this topic and is incorporating these changes to appendix A.

D. Sampling Plans, Certification Reporting, and Measurement/Verification of Volume

In the Test Procedure NOPR, DOE proposed to apply the same statistical evaluation criteria for consumer product test samples to MREFs. In addition, DOE proposed to establish a new section 10 CFR 429.61, which would be titled "Miscellaneous refrigeration products," to address sampling plans, certification reports, rounding requirements, and product category determinations for these products. 79 FR at 74905.

DOE did not receive any comments on the proposed requirements to be included in 10 CFR 429.61, and is establishing the relevant sampling plan, certification reporting, rounding, and product category determination requirements for coolers and combination cooler refrigeration products in this document. DOE notes that the provisions within 10 CFR 429.61 clarify that compartment temperatures used to determine the appropriate product category must be determined in a 90 °F ambient temperature (by referencing appendix A). Additionally, DOE has incorporated clarifying edits to the product category determination section to specify which measured values must be used in making the determination. This final rule also updates the refrigerator, refrigerator-freezer, and freezer requirements in 10 CFR 429.14 to include these clarifications (referencing appendix A for refrigerators and refrigerator-freezers, and appendix B for freezers). DOE is also clarifying in 10 CFR 429.14 which volume values must be reported and that the rounding requirements for certified volumes do not apply until the compliance date of amended energy conservation standards for refrigerators, refrigerator-freezers, and freezers is reached. For both of these sections in 10 CFR part 429, DOE is also clarifying their section headings to specify that they refer to consumer products.

DOE's product-specific enforcement provisions are included in 10 CFR 429.134. Within this section, paragraph (b) describes the specific requirements for refrigerators, refrigerator-freezers, and freezers. In the Test Procedure NOPR, DOE proposed adding a new section within 10 CFR 429.134 to include product-specific enforcement provisions for MREFs. DOE proposed that the MREF requirements be consistent with those in place for refrigerators, refrigerator-freezers, and freezers. 79 FR at 74905.

DOE did not receive comments in response to the proposed enforcement provisions for MREFs. In this final rule, DOE is establishing a new section within 10 CFR 429.134 to include enforcement requirements for MREFs that are consistent with those currently in place for refrigerators, refrigerator-freezers, and freezers. DOE is also amending the enforcement provisions for refrigerators, refrigerator-freezers, and freezers for consistency with the rounding requirements discussed in section VI.L of this document.

DOE's current regulations in 10 CFR 429.72(c) allow the use of computer-aided design ("CAD") models when determining volume for refrigerators, refrigerator-freezers, and freezers. In the Test Procedure NOPR, DOE proposed to add § 429.72(d) to establish the same approach for MREFs. 79 FR at 74905.

Felix Storch, Inc. ("FSI") commented that it strongly agreed with DOE's proposal to allow CAD models in place of measured volumes for certifying volumes and testing products. (FSI, Test Procedure NOPR, No. 15 at p. 2)[6] DOE received no other comments regarding this aspect of its proposal.

In this final rule, DOE is establishing § 429.72(d) as proposed in the Test Procedure NOPR, to allow the use of CAD models when determining volume for MREFs.

E. Compartment Definition

In the Test Procedure NOPR, DOE noted that although the term "compartment" is used extensively in the DOE test procedures, it had not been defined. The DOE test procedure uses the term to refer to both individual enclosed spaces within a product (*e.g.*, referring to a specific freezer compartment), as well as all enclosed spaces within a product that meet the same temperature criteria (*e.g.*, referring to the freezer compartment temperature—a volume-weighted average temperature for all individual freezer compartments within a product). DOE noted that "compartment" is defined in the Australian/New Zealand test procedures (AS/NZS 4474.1–2007); however, DOE noted that the AS/NZS 4474.1–2007 approach is not fully consistent with how the term "compartment" is used in the DOE test procedures. To limit the extent of test procedure changes necessary when including a compartment definition, DOE proposed a definition for "compartment" that included the two key meanings in the test procedures. 79 FR at 74905–74907.

DOE also proposed additional instructional language in section 5.3 of appendix A and appendix B to clarify how the concept of compartments should be used in the test procedures: (1) Each compartment to be evaluated would be an enclosed space without subdividing barriers that divide the space—a subdividing barrier would be defined as a solid barrier (including those that contain thermal insulation) that is sealed around all of its edges to prevent air movement from one side to the other, or has edge gaps insufficient to permit thermal convection transfer from one side to the other that would cause the temperatures on both sides of the barrier to equilibrate; (2) each evaluated compartment would not be a zone of a larger compartment unless the zone is separated from the larger compartment by subdividing barriers; and (3) if a subdividing barrier can be placed in multiple locations, it would be placed in the median position, or, if it can be placed in an even number of locations, it would be placed in the near-median position that results in a smaller (rather than larger) cooler compartment volume. DOE also proposed to include the set-up requirement for movable subdividing barriers in section 2.7 of appendix A and in section 2.5 of appendix B. 79 FR at 74906–74906.

The MREF Working Group considered the issue of a compartment definition in its discussions. Working Group members indicated that the intent of the term "compartment," as included in the existing test procedures, was well-understood by industry and test laboratories, and that a definition intended to cover the multiple uses in the test procedure would potentially introduce confusion. Accordingly, the MREF Working Group recommended that DOE not include a "compartment" definition, and that DOE address this issue in a future rulemaking for refrigerator, refrigerator-freezer, and freezer test procedures. The MREF Working Group suggested that, at that time, DOE consider adopting a definition based on the definition in AS/NZS 4474.1–2007. The MREF Working Group also recommended that DOE include the additional clarifications for considering compartments in sections 2.7 and 5.3 of appendix A and sections 2.5 and 5.3 appendix B. The MREF Working Group further recommended that DOE clarify the definition of "special compartment" to more clearly distinguish between special compartments and cooler compartments within combination cooler refrigeration products. See Term Sheet #1 at pp. 7, 10, 17–18, and 32–33.

Consistent with the MREF Working Group recommendation, DOE is not amending appendix A or appendix B to include a definition for the term compartment. Instead, this final rule amends appendix A and appendix B to include the additional clarifications regarding compartments as proposed in the Test Procedure NOPR. DOE is also amending the current definition for "special compartment," consistent with the MREF Working Group recommendation, to refer to any compartment, other than a butter conditioner or a cooler compartment, without doors that are directly accessible from the exterior, and with a separate temperature control (such as crispers convertible to meat keepers) that is not convertible from the fresh food temperature range to the freezer temperature range.

F. Cooler Compartments

1. Cooler Compartment Standardized Temperature

In order to ensure that test results are both repeatable and representative of consumer use, the DOE test procedures require the use of standardized compartment temperatures representative of typical consumer use. In the Test Procedure NOPR, DOE proposed a standardized cooler compartment temperature of 55 °F, which would apply to coolers and cooler compartments within combination cooler refrigeration products. DOE noted that this temperature is already widely in use in other industry test methods. In addition, DOE market research of products with cooler compartments revealed typical temperature ranges of 45 °F to 65 °F, with 55 °F often representing the most common target temperature. 79 FR at 74907–74908.

---

[6] A notation in the form "FSI, Test Procedure NOPR, No. 15 at p. 1" identifies a written comment: (1) Made by Felix Storch, Inc. (FSI); (2) recorded in document number 15 that is filed in the docket of the test procedure rulemaking for miscellaneous refrigeration products (Docket No. EERE–2013– BT–TP–0029) and available for review at *www.regulations.gov*; and (3) which appears on page 1 of document number 15.

The MREF Working Group supported DOE's proposal from the Test Procedure NOPR because 55 °F is already the industry-accepted compartment temperature for these types of products. The MREF Working Group recommended that DOE adopt the 55 °F cooler compartment temperature in its test procedures for MREFs. See Term Sheet #1 at p. 20.

For the reasons outlined in the Test Procedure NOPR, and as supported by the MREF Working Group, DOE is establishing 55 °F as the standardized cooler compartment temperature used for testing in appendix A.

2. Cooler Compartment Temperature Measurement

In the Test Procedure NOPR, DOE proposed to reference section 5.5.5.4 of AHAM Standard HRF–1–2008, (''HRF–1–2008''), *Association of Home Appliance Manufacturers, Energy and Internal Volume of Refrigerating Appliances* (2008) for the temperature measurement requirements in cooler compartments in coolers and combination cooler refrigeration products. The proposed sensor placements would be consistent with the existing requirements for fresh food compartments. To implement this change, DOE proposed to add a reference to cooler compartments in section 5.1 of appendix A, indicating that temperature sensor placement within these compartments would be performed as indicated in Figure 5.1 of AHAM HRF–1–2008. DOE also proposed to require volume-weighted averaging of cooler compartment temperatures in cases where there are multiple cooler compartments, similar to the current requirements for volume-weighted averaging of fresh food and freezer compartments in sections 5.1.3 and 5.1.4 of appendix A. 79 FR at 74908.

The MREF Working Group did not specifically address these proposals in its meetings, but it did recommend that DOE follow the same approach as outlined in the Test Procedure NOPR. See Term Sheet #1 at pp. 23–26.

Because DOE received supporting feedback, and none opposing, the Test Procedure NOPR approach, it has incorporated the proposed temperature measurement requirements for cooler compartments into appendix A.

3. Cooler Compartments as Special Compartments

In the Test Procedure NOPR, DOE proposed to treat a product as a combination cooler refrigeration product only if the cooler compartment(s) comprised at least 50 percent of the total refrigerated volume. DOE proposed that cooler compartments in products that comprised less than 50 percent of the total cooler compartment volume would be treated as special compartments. Special compartments would be tested at their coldest temperature setting. 79 FR at 74908.

As discussed in section V.B of this document, DOE has eliminated the 50-percent cooler compartment volume requirement from the combination cooler refrigeration product definition. Accordingly, the final rule will not require that cooler compartments be treated as special compartments, regardless of their volume.

4. Temperature Settings and Energy Use Calculations

In the Test Procedure NOPR, DOE proposed that the temperature settings and energy use calculations for MREFs would use an approach similar to those used in the existing refrigerator and refrigerator-freezer test procedure. Specifically, DOE proposed adding the following steps to section 3 of appendix A:

(1) The temperature controls for cooler compartments would be placed in the median position for a first test.

(2) The temperature control setting for the second test would depend on all of the measured compartment temperatures, including that of the cooler compartment. The setting would be warm for all compartments, including the cooler compartment, if the compartment temperatures measured for the first test are all below their standardized temperatures; otherwise, the temperature controls would all be set to their coldest settings.

(3) If all of the measured compartment temperatures are lower than their standardized temperatures for both tests, the energy use calculation would be based only on the second (warmest setting) test.

(4) If the measured compartment temperature of any compartment is warmer than its standardized temperatures for a test with the controls in the cold setting, the energy use calculation would be based on cold- and warm-setting tests, subject to specific restrictions based on compartment temperatures, measured energy use, except that for non-compressor refrigeration products, the energy use calculation would be based only on the cold-setting test.

(5) If neither (3) nor (4) occur, the energy use calculation would be based on both tests.

(6) The test procedure would also allow an energy use rating to be based simply on the results of a single first test, if that test is conducted with the compartment temperature controls in their warmest setting, provided that the measured compartment temperatures are all below their standardized temperatures.

79 FR at 74908–74909.

DOE proposed that the energy use calculations would follow the same approach as for the existing test procedures for refrigerators and refrigerator-freezers, in which energy use is interpolated to the standardized compartment temperatures. For combination cooler refrigeration products, DOE proposed that the highest of the three possible energy use calculations (one each for cooler compartments, fresh food compartments and/or freezer compartments) would be used to determine overall energy consumption, consistent with the approach for refrigerator-freezers. For products unable to maintain compartment temperatures below the standardized compartment temperatures at any control setting, DOE proposed extrapolating to the standardized compartment temperature using the test results at the warm and cold settings. In the case of non-compressor refrigerators unable to maintain standardized compartment temperatures, DOE proposed that the test results be based on the result of the cold setting test only. 79 FR at 74909.

The MREF Working Group discussed appropriate test settings and energy use calculations for MREFs. Working Group members disagreed with the Test Procedure NOPR proposals for addressing products unable to maintain standardized compartment temperatures. The MREF Working Group ultimately recommended that the test procedure provide no energy use rating for products unable to maintain standardized compartment temperatures, consistent with the requirements included in appendix A. The MREF Working Group supported the other proposals related to temperature settings and energy use calculations, which were consistent with the existing requirements for refrigerators and refrigerator-freezers. The Working Group also recommended that DOE revise the current version of

Table 1 in appendix A to simplify the required temperature settings for each possible compartment temperature result. See Term Sheet #1 at pp. 21–22.

The existing test procedure in appendix A states that if a product cannot maintain the applicable standardized temperature, it would receive no energy use rating. Many of the products that would receive no energy use rating would now be considered coolers under the definitions described in section V of this document, and would receive an energy use rating under the test procedures established for those products in this final rule. However, DOE is aware that certain products marketed as coolers, particularly those with non-compressor refrigeration systems, are unable to maintain a 55 °F compartment temperature in the 90 °F ambient test condition. While these products would meet the cooler definition, DOE agrees with the MREF Working Group recommendation and has specified in appendix A that these products would receive no energy use rating. DOE expects that the extrapolation approach for these products would not reflect actual energy consumption in the field, and as a result, no energy use rating is appropriate. Manufacturers of these products would be required to pursue a test procedure waiver, as described in section 7 of appendix A, to determine an appropriate energy use rating for these products that reflects actual energy use under normal consumer use.

DOE is maintaining the remaining relevant temperature setting and energy use calculation requirements as proposed and explained in the Test Procedure NOPR and recommended by the MREF Working Group.

5. Volume Calculations

In the Test Procedure NOPR, DOE proposed that the refrigerated volume calculation for a cooler compartment would be conducted in the same way as the existing volume calculations for a fresh food compartment. Specifically, the volume measurements would be conducted according to section 3.30 and sections 4.2 through 4.3 of HRF–1–2008, with additional clarifications as included in appendix A. In calculating the adjusted volume of coolers, DOE proposed a volume adjustment factor equal to 1.0. 79 FR at 74909.

For combination cooler refrigeration products, DOE proposed to apply a volume adjustment factor of 0.69 for cooler compartments. This adjustment factor was intended to account for the warmer temperature and reduced thermal load of the cooler compartment when compared to a fresh food or freezer compartment. The value of 0.69 was based on the difference between the 55 °F standardized compartment temperature and the 90 °F ambient temperature relative to the difference between the 39 °F fresh food standardized compartment temperature and the 90 °F ambient temperature (fresh food compartments have a volume adjustment factor of 1.0). 79 FR at 74909.

The MREF Working Group considered cooler compartment volume adjustment factors in its test procedure recommendation to DOE. The Working Group agreed with the Test Procedure NOPR proposal of using a volume adjustment factor of 1.0 for cooler compartment volumes within coolers (*i.e.,* products including only cooler compartments). For combination cooler refrigeration products, the Working Group also recommended a volume adjustment factor of 1.0 for the cooler compartment volumes. While the approach proposed in the Test Procedure NOPR is consistent with the calculation to determine the freezer volume adjustment factor, the Working Group determined that a corresponding calculation would not be appropriate for cooler compartments. The group discussed that cooler compartments typically have glass doors, a factor that leads to an increased thermal load for these compartments despite their higher internal compartment temperatures. The higher temperature of a cooler compartment combined with a glass door leads to a thermal load similar to a fresh food compartment with a solid door. Accordingly, the MREF Working Group recommended that DOE apply a volume adjustment factor of 1.0 to all cooler compartments in both coolers and combination cooler refrigeration products. See Term Sheet #1 at pp. 34–35.

DOE provided analytical support to the MREF Working Group discussions which led to the group's recommendation to DOE. In modeling the performance of combination cooler refrigeration products, DOE found that fresh food and cooler compartments with typical construction had very similar thermal loads. For example, assuming a 6-cubic foot volume for both the fresh food and cooler compartment in a combination cooler refrigerator with 1.5-inch wall insulation and a mid-tech glass door for the cooler compartment (*i.e.,* dual-pane with inert gas fill and low-emissivity coating) resulted in thermal loads of 28.1 Watts (W) for the cooler compartment and 27.3 W for the fresh food compartment.[7]

Based on the recommendations from the MREF Working Group and the supporting modeling data, DOE is establishing the volume calculations as proposed in the Test Procedure NOPR, except with a volume adjustment factor of 1.0 for all cooler compartments.

6. Convertible Compartments

Certain compartments may be convertible between the temperature ranges that define coolers, refrigerators, and freezers (*i.e.,* cooler, fresh food, and freezer compartment temperatures). To address this possibility, DOE proposed in the Test Procedure NOPR to modify the requirements for convertible compartments in appendix A. The proposed changes included temperature ranges in appendix A, sections 2.7 and 3.2.3, to define whether a compartment is convertible to a cooler compartment and to provide appropriate temperature settings for convertible compartments that would be tested as cooler compartments. The existing requirement that the convertible compartment be tested in its highest energy use position would not change, nor would the requirement that separate auxiliary convertible compartments be tested with the convertible compartment set as the compartment type that represents the highest energy use position. 79 FR at 74909.

DOE did not receive comments in response to the Test Procedure NOPR proposal for convertible compartments, and the MREF Working Group did not specifically address this topic in its discussions. However, the MREF Working Group included the convertible compartment requirements as proposed in the Test Procedure NOPR in its test procedure recommendation to DOE. See Term Sheet #1 at pp. 17–18, 22–23. For these reasons, DOE is adopting the proposed convertible compartment requirements from its Test Procedure NOPR for inclusion in appendix A.

G. Test Procedures for Coolers

1. Ambient Temperature and Usage Factor

DOE's existing test procedures for refrigerators, refrigerator-freezers, and freezers require testing with the cabinet doors kept closed in an environmentally-controlled room at 90 °F temperature. This test condition is intended to simulate operation in more typical room temperature conditions (72

---

[7] The analysis is included in the "2015–10–20 Working Group Meeting Materials: Combination Cooler Engineering Results" file in docket ID EERE–2011–BT–STD–0043, accessible on regulations.gov.

°F) with door openings. The test procedures for freezers apply adjustment factors to the measurements of energy use during the test to adjust for less frequent usage when compared to refrigerators and refrigerator-freezers. Appendix B applies correction factors of 0.7 for chest freezers and 0.85 for upright freezers.

DOE proposed in the Test Procedure NOPR to test vapor-compression coolers in a 90 °F ambient condition, consistent with the existing test procedures, but with a usage factor of 0.55. This proposed usage factor is lower than the 0.85 usage factor required by California Energy Commission ("CEC") and Natural Resources Canada ("NRCan") regulations, and applied in the AHAM test procedure these products. DOE developed the 0.55 factor by combining data on the performance impacts of the ambient temperature (72 °F for typical operation versus 90 °F for testing) and the estimated thermal loads for these products based on typical consumer use. DOE found that operation in the 72 °F temperature resulted in an average measured energy consumption of 0.46 times the value measured at the 90 °F ambient temperature. DOE estimated that consumer use for door openings and food loads would represent a 20-percent additional thermal load (based on the ratio of the 0.85 to 0.7 usage factors for upright versus chest freezers, respectively). Multiplying 0.46 by 1.2 results in the overall usage factor of 0.55 proposed in the Test Procedure NOPR for vapor-compression coolers. 79 FR at 74910–74912.

DOE testing of non-compressor coolers prior to the Test Procedure NOPR showed that certain units were unable to maintain standardized compartment temperatures in a 90 °F ambient condition. To address this issue, DOE proposed that non-compressor coolers be tested in a 72 °F ambient condition with a usage factor of 1.2 to represent the additional thermal loads associated with consumer use. 79 FR at 74910–74912.

The MREF Working Group considered ambient conditions and usage factors for cooler testing in its recommendations to DOE. The Working Group agreed with DOE's proposals for testing vapor-compression coolers, and recommended that DOE require testing in a 90 °F ambient with a 0.55 usage factor for these products. For non-compressor coolers, the Working Group disagreed with DOE's proposal. The Working Group recommended that DOE establish consistent testing requirements for all coolers, regardless of refrigeration technology. See Term Sheet #1 at pp. 14, 27.

After considering the MREF Working Group recommendations, DOE is establishing one set of test requirements for testing coolers in appendix A, regardless of refrigeration technology. DOE has included the 90 °F ambient test temperature and 0.55 usage factor as initially proposed for vapor-compression coolers in the Test Procedure NOPR. Establishing one set of test requirements ensures that all products offering the same consumer utility and function are rated on a consistent basis, providing consumers with a meaningful basis to compare product energy consumptions. As discussed in section VI.F.4 of this document, manufacturers of products unable to maintain the standardized compartment temperature in a 90 °F test condition would be required to pursue a test procedure waiver, as described in section 7 of appendix A.

2. Light Bulb Energy

In the Test Procedure NOPR, DOE noted that coolers often have glass doors that permit consumers to display stored items and manually-operated lighting to illuminate these items for better viewing. The procedures under appendices A and B require that electrically-powered features not required for normal operation and that are manually-initiated and manually-terminated must be set in their lowest energy use position during the energy test. However, Canadian Standards Association, Standard C300–08 ("CSA C300–08") requires two tests, one each with the lights on and off, and an average energy use result. Based on field surveys conducted by Lawrence Berkeley National Laboratory ("LBNL"), which indicated that 90 percent of consumers kept light switches off in coolers,[8] DOE proposed to only test with any light switches in the off position. 79 FR at 74912.

The MREF Working Group supported DOE's proposal in the Test Procedure NOPR, and recommended that DOE require testing coolers with any light switches in the off position. See Term Sheet #1 at p. 15 (recommending use of the operational conditions for a unit under test prescribed in specific provisions from HRF–1–2008).

Based on the data cited in the Test Procedure NOPR and the MREF Working Group recommendation, DOE is requiring that cooler compartments be tested with any light switches in the off position. This requirement is consistent with the existing provisions in appendix A and appendix B for electrically-powered features not required for normal operation and that are manually-initiated and manually-terminated.

H. Non-Compressor Refrigeration Products

1. Ambient Temperature for Non-Compressor Refrigeration Products

In the Test Procedure NOPR, DOE proposed definitions and specific test provisions for non-compressor refrigerators. 79 FR at 74912–74913.

As discussed in section III of this document, DOE did not establish coverage for non-compressor refrigerators as MREFs because it is not aware of any of these products available on the market.

In response to the Test Procedure NOPR proposals, Indel B S.p.a. ("Indel B") commented that at a 90 °F ambient temperature, it is impossible for some absorption refrigerators to work. It stated that for reasons based on the properties of the chemicals involved, raising the ambient temperature is not the same as door openings because gas mixes have a worse performance at 90 °F as opposed to a 72 °F ambient conditions. (Indel B, Public Meeting Transcript, No. 14 at p. 106)[9]

Products with non-compressor refrigeration systems would be considered coolers, not refrigerators, based on DOE's testing and the product definitions discussed earlier in this document, and would be subject to the cooler testing requirements detailed elsewhere in this final rule. Accordingly, DOE is not establishing specific testing provisions for non-compressor refrigerators in appendix A. DOE notes that while non-compressor products likely cannot maintain a 39 °F compartment temperature in a 90 °F ambient temperature, many are capable of maintaining the 55 °F compartment temperature required for cooler testing. If testing in the 90 °F ambient condition is not appropriate for certain products, manufacturers of those products would be required to pursue a test procedure waiver, as described in section 7 of appendix A, to determine an appropriate energy use rating for these products.

---

[8] U.S. Residential Miscellaneous Refrigeration Products: Results from Amazon Mechanical Turk Surveys, LBNL–6194E, No. 10 at pp. 43–44.

[9] A notation in the form "Indel B, Public Meeting Transcript, No. 14 at p. 106" identifies an oral comment that DOE received on January 8, 2015 during the Test Procedure NOPR public meeting, was recorded in the public meeting transcript in the docket for the test procedure rulemaking (Docket No. EERE–2013–BT–TP–0029). This particular notation refers to a comment (1) made by Indel B S.p.a. (Indel B) during the public meeting; (2) recorded in document number 14, which is the public meeting transcript that is filed in the docket of the test procedure rulemaking; and (3) which appears on page 106.

2. Refrigeration System Cycles

In the Test Procedure NOPR, DOE proposed to clarify in 10 CFR 430.23 that, in the context of non-compressor products, the term "compressor cycle" means a "refrigeration cycle" and that the term "compressor" refers to a "refrigeration system." The proposal would clarify references in appendix A to specifically refer to compressor operation or complete compressor cycles. DOE proposed this approach rather than establishing parallel identical test procedures for non-compressor products, or inserting the phrase "or refrigeration system cycles for non-compressors products," to simplify the text in appendix A. DOE also proposed that the test procedure requirements in place for refrigerators and refrigerator-freezers with multiple compressors would also apply to non-compressor products with multiple refrigeration systems. 79 FR at 74913–74914.

DOE did not receive feedback in response to this proposal in the Test Procedure NOPR. Therefore, in this final rule, DOE is establishing the clarification in 10 CFR 430.23(dd) as proposed in the Test Procedure NOPR.

I. Extrapolation for Refrigeration Products

Appendices A and B do not currently provide energy use ratings for products that are unable to maintain standardized compartment temperatures. The previous test procedures in appendices A1 and B1 included an extrapolation calculation based on the warm and cold test setting energy use results to estimate energy use at the standardized compartment temperatures.

In the Test Procedure NOPR, DOE proposed to include the extrapolation method in appendix A and appendix B to determine energy use ratings for refrigeration products other than non-compressor refrigerators—the Test Procedure NOPR proposed using the cold setting results only in the case of non-compressor refrigerators unable to maintain standardized compartment temperatures. The proposal would also ensure that the extrapolation method would only be used when the calculations would provide meaningful energy use results (*i.e.*, higher energy consumption associated with extrapolating to the lower compartment temperatures) by requiring that the measured warm-setting compartment temperature(s) are warmer than the cold-setting compartment temperature(s), and the measured energy use must be lower in the warm setting. 79 FR at 74914.

The MREF Working Group recommended that DOE not include the extrapolation approach in Appendix A for products unable to maintain standardized compartment temperatures. Instead, the Working Group recommended that DOE maintain the "no energy use rating" approach for these products. See Term Sheet #1 at pp. 21–22.

DOE notes that extrapolating energy use results from the warm and cold test settings for a test unit may result in a final energy use that would be higher than any actual energy use possible in the field. For this reason, DOE has not included the extrapolation approach in appendix A or appendix B, consistent with the recommendation from the MREF Working Group. For any units unable to maintain standardized compartment temperatures, manufacturers would instead need to apply for a test procedure waiver that would ensure representative test results.

J. Combination Cooler Refrigeration Product Test Procedures

To properly address testing issues involved with assessing the energy usage of combination cooler refrigeration products, DOE examined a number of factors. These factors included appropriate ambient temperatures, usage factors, standardized temperatures, and temperature control settings and energy use calculations. These different elements, along with the test requirements DOE is establishing in this final rule, are discussed in detail below. The test provisions for combination cooler refrigeration products discussed in this section will be required on the compliance date for any future energy conservation standards established for combination cooler refrigeration products.

1. Ambient Temperature

In the Test Procedure NOPR, DOE proposed to require that combination cooler refrigeration products be tested in a 90 °F ambient temperature. DOE proposed this test condition for consistency with the test requirements for refrigerators, refrigerator-freezers, and freezers. 79 FR at 74914–74915.

The MREF Working Group recommended DOE maintain the test conditions as proposed in the Test Procedure NOPR. See Term Sheet #1 at p. 14.

In this final rule, DOE is establishing that combination cooler refrigeration products must be tested in a 90 °F ambient temperature, consistent with the existing requirements for refrigerators, refrigerator-freezers, and freezers, as well as the newly established ambient conditions for coolers, as discussed in section VI.G.1 of this document.

2. Usage Factor

For combination cooler refrigeration products, DOE proposed in the Test Procedure NOPR that a usage adjustment factor of 0.85 be applied in the energy use calculations. Because a portion of these products is made up of a cooler compartment, DOE noted that the door opening frequency would likely be closer to that of a cooler than a refrigerator. Despite proposing a usage factor of 0.55 for coolers in the Test Procedure NOPR, DOE proposed a higher value for combination cooler refrigeration products because the 90 °F ambient temperature likely has a lesser impact on the performance of these products when compared to coolers. 79 FR at 74914–74915.

The MREF Working Group discussed the appropriate usage factor for combination cooler refrigeration products, and recommended that DOE include a factor of 0.55 for these products, consistent with the usage factor proposed and recommended for coolers. See Term Sheet #1 at p. 27. In reaching this recommendation, the Working Group also discussed limited consumer use data provided by AHAM in comments submitted in response to the Test Procedure NOPR, which indicated that combination cooler refrigeration products are used much less frequently than refrigerators or refrigerator-freezers. (AHAM, Test Procedure NOPR, No. 18 at p. 9)

Consistent with the MREF Working Group recommendation, and based on the limited available data, DOE expects that combination cooler refrigeration products are used in a similar manner to coolers—*i.e.*, not as the primary food-storage product for the residence, and typically used to store beverages. Therefore, DOE is establishing a usage factor of 0.55 in the appendix A calculations for these products, consistent with the usage factor established for coolers.

3. Temperature Control Settings and Energy Use Calculations

In the Test Procedure NOPR, DOE also proposed to require that the temperature setting requirements and resulting energy use calculations for combination cooler refrigeration products be consistent with the existing approach used for refrigerators, refrigerator-freezers, and freezers. 79 FR at 74915.

The MREF Working Group supported the approach outlined in the Test

Procedure NOPR; however, as discussed in section VI.I of this document, the Working Group recommended that DOE remove the extrapolation calculation for products not able to maintain the standardized compartment temperatures. See Term Sheet #1 at pp. 21–22.

Based on the Test Procedure NOPR proposal and the MREF Working Group's feedback, DOE is establishing the following test setting and energy use calculation approach for combination cooler refrigeration products, consistent with the existing requirements for refrigerators, refrigerator-freezers, and freezers:

(1) A first test would be conducted with all temperature controls set in their median position.

(2) If the measured compartment temperatures during the first test are all lower than the compartments' standardized temperatures, a second test would be conducted with all temperature controls set in their warmest positions. If the measured compartment temperatures for the second test are still lower than the compartments' standardized temperatures, the energy use would be calculated based on the results of the second test only. Otherwise, the energy use would be calculated based on the results of both tests.

(3) Conversely, if one or more of the measured compartment temperatures during the first test are warmer than the standardized temperature(s), the second test would be conducted with all temperature controls set in their coldest positions. If, for this second test, the measured compartment temperatures are all lower than the compartments' standardized temperatures, the results of both tests would be used to calculate the energy consumption. If one or more of the compartment temperatures are still warmer than the standardized temperatures, the test would not result in an energy use rating.

(4) Alternatively, the energy use could be calculated based on a single test conducted with all temperature controls set in their warmest position, if the measured compartment temperatures are all lower than their compartments' standardized temperatures.

For combination cooler refrigeration products, DOE is requiring that the energy use be determined based on the above steps for each individual compartment type in the product. The final energy use rating is then based on the highest calculated energy consumption from the different compartment types. This is consistent with the existing approach for refrigerator-freezers.

Because DOE is incorporating test procedures for coolers and combination cooler refrigeration products into appendix A, DOE is also revising the text and tables in section 3.2.1 of appendix A to simplify the description of the test setting requirements as they apply to all products that may be tested.

K. Incidental Changes To Test Procedure Language To Improve Clarity

In the Test Procedure NOPR, DOE proposed additional revisions to the appendix A and appendix B test procedures to improve clarity.

DOE proposed to revise the references to the different control settings needed for testing. Specifically, DOE proposed to change the language to refer to "tests" rather than "test periods" in appendix A and appendix B. 79 FR at 74923.

DOE proposed to amend the regulatory language associated with separate auxiliary compartments. Rather than discussing "first" fresh food or freezer compartments, DOE proposed to use the term "primary" fresh food or freezer compartments. *Id.*

DOE proposed to modify its definition for variable defrost. Rather than indicating that the times between defrost should vary with different usage patterns and include a continuum of lengths of time between defrosts as inputs vary, DOE proposed to modify the language by replacing "should" with "must." *Id.*

DOE proposed to extend certain set-up provisions to some of the new product classes addressed by this document. For example, section 2.4 of appendix A describes requirements for automatic defrost refrigerator-freezers. DOE proposed to indicate in the title of this section that this provision would apply to all automatic defrost refrigeration products covered by appendix A that have freezer compartments with a temperature range equivalent to the freezer compartments of refrigerator-freezers (which would include cooler-refrigerator-freezers and cooler-freezers). Also, section 2.5 of appendix A describes requirements for all-refrigerators with small compartments for the freezing and storage of ice. DOE proposed that the title of this section be modified to also reference cooler-all-refrigerators (as well as other product types that are no longer relevant). Finally, section 2.11 of appendix A addresses refrigerators and refrigerator-freezers with demand-response capability. DOE proposed that this requirement would generally apply to refrigeration products covered by the test procedure. *Id.*

The MREF Working Group included the clarifications as described above in its test procedure recommendation to DOE. See Term Sheet #1 at pp. 15–19. DOE did not receive any additional feedback on these proposals; therefore, DOE is establishing the clarifications in appendix A and appendix B as proposed in the Test Procedure NOPR.

In addition to the clarifications described above and proposed in the Test Procedure NOPR, DOE is also correcting an error identified in appendix A. DOE published a final rule in the **Federal Register** on January 25, 2012, which, in relevant part, updated Figure 1 in section 4.2.1.1 of appendix A. 79 FR 22320. On April 21, 2014, DOE published a final rule that inadvertently removed Figure 1 from section 4.2.1.1 of appendix A. DOE is reinserting Figure 1 into section 4.2.1.1 to improve the clarity of the test procedure. Neither the error nor the correction in this document affect the substance of the test procedure or compliance with existing energy conservation standards. Accordingly, DOE finds that notice and comment is unnecessary for this clarifying amendment.

DOE is also amending certain sections in appendix A to remove specific references to fresh food and freezer compartments. The existing phrasing in appendix A would exclude MREFs containing cooler compartments.

In section 5.1(b) of appendices A and B, DOE is clarifying that thermocouples may be relocated to maintain a minimum 1-inch air space from adjustable shelves or component, but that the sensors shall not be relocated if the instructions in HRF–1–2008 specify a location with less than 1 inch distance to a component.

L. Changes to Volume Measurement and Calculation Instructions

Due to questions received regarding how to account for certain component volumes, DOE issued guidance on the proper treatment of such components in August 2012 ("Guidance on Component Consideration in Volume Measurements," No. 11, ("August 2012 Guidance")).[10] DOE proposed in the Test Procedure NOPR to amend appendices A and B to clarify the appropriate volume measurements consistent with the instructions provided in the August 2012 Guidance. DOE also proposed rounding requirements for compartment and overall volumes, and to refer to adjusted total volume as "AV" rather than "VA" in appendix A and appendix B. 79 FR at 74923.

---

[10] This and other DOE guidance documents are available for viewing at *http://www1.eere.energy.gov/guidance/default.aspx?pid=2&spid=1.*

The MREF Working Group discussed the Test Procedure NOPR proposals for volume measurements and calculations, and generally supported their inclusion in the test procedures. However, the Working Group recommended that the new rounding requirements for refrigerator, refrigerator-freezer, and freezer volumes not be required for use until the compliance date of any amended energy conservation standards for these products. The MREF Working Group recommended that the test procedure include an introductory note to clarify this point. See Term Sheet #1 at p. 8.

DOE agrees with the MREF Working Group recommendations regarding volume measurements and calculations. Additionally, although the Working Group did not make specific recommendations for updating appendix B for freezers, DOE is incorporating similar changes into appendix B to maintain consistency between the two test procedures. Accordingly, DOE is establishing the following requirements and clarifications in appendix A and appendix B.

The following component volumes shall not be included in the compartment volume measurements: Icemaker compartment insulation (*e.g.*, insulation isolating the icemaker compartment from the fresh food compartment of a product with a bottom-mounted freezer with through-the-door ice service), fountain recess, dispenser insulation, and ice chute (if there is a plug, cover, or cap over the chute per Figure 4–2 of HRF–2–2008). However, the following component volumes shall be included in the compartment volume measurements: icemaker auger motor (if housed inside the insulated space of the cabinet), icemaker kit, ice storage bin, and ice chute (up to the dispenser flap, if there is no plug, cover, or cap over the ice chute per Figure 4–3 of HRF–1–2008).

Adjusted total volume was previously designated VA in appendices A and B, whereas it is designated AV in 10 CFR 430.32. DOE is changing the designation to AV in the test procedure appendices for consistency.

Volumes of freezer, fresh food, and cooler compartments shall be rounded to the nearest 0.01 cubic foot, and if the volumes of these compartments are recorded in liters, they shall be converted to cubic feet and rounded to the nearest 0.01 cubic foot before using these values when calculating the total refrigerated volume or adjusted total volume. Total refrigerated volume and adjusted volume shall be recorded to the nearest 0.1 cubic foot. DOE is also including the clarifying note as recommended by the MREF Working Group to explain that the new rounding requirements are not required until the compliance date of any amended energy conservation standards for refrigerators, refrigerator-freezers, and freezers.

M. Removal of Appendices A1 and B1

The most recent energy conservation standards for refrigerators, refrigerator-freezers, and freezers took effect for products manufactured on or after September 15, 2014. To prevent confusion and to eliminate unnecessary regulatory text, DOE proposed in the Test Procedure NOPR to remove appendix A1 and appendix B1 from subpart B to 10 CFR part 430 and to remove reference to these appendices in other parts of the regulations. 79 FR at 74923–74924.

Appendices A1 and B1 incorporated by reference ANSI/AHAM HRF–1–1979, (Revision of ANSI B38.1–1970), (“HRF–1–1979”), *American National Standard, Household Refrigerators, Combination Refrigerator-Freezers and Household Freezers*. DOE proposed removing HRF–1–1979 from the list of standards incorporated by reference, corresponding to the removal of appendix A1 and appendix B1. 79 FR at 74924.

DOE did not receive any comments on this topic, and is removing appendix A1 and appendix B1 from 10 CFR part 430, subpart B. DOE is also removing HRF–1–1979 from the list of standards incorporated by reference in 10 CFR 430.3.

N. Compliance With Other EPCA Requirements

1. Test Burden

EPCA requires that the test procedures DOE prescribes or amends be reasonably designed to produce test results that measure the energy efficiency, energy use, or estimated annual operating cost of a covered product during a representative average use cycle or period of use. These procedures must also not be unduly burdensome to conduct. 42 U.S.C. 6293(b)(3). DOE has concluded that the amendments established by this final rule satisfy this requirement.

The test procedures established in this final rule apply primarily to products currently unregulated by DOE. Most of these products are very similar to refrigerators, refrigerator-freezers, and freezers, and use refrigeration systems to keep the interiors of insulated cabinets cool. The test procedures are based on, and consistent with, test procedures currently required for testing refrigerators, refrigerator-freezers, and freezers and would not represent any greater test burden than DOE’s test procedures for these products.

DOE considered whether the test procedures could be modified to further reduce test burden without negatively affecting test accuracy and concluded that there are no such options for modification at this time that would significantly reduce the burden beyond the steps already taken and described above.

2. Changes in Measured Energy Use

There currently are no DOE test procedures or energy conservation standards for coolers and combination cooler refrigeration products. Hence, the amendments established in this final rule do not change the measured energy use for these products.

For refrigerators, refrigerator-freezers, and freezers, the amendments established in this final rule only clarify the existing test provisions for these products and do not result in any changes in measured energy use. However, as discussed in sections V.B and VI.J of this document, combination cooler refrigeration products, according to the definitions established in this rule, are currently certified for compliance with the existing refrigerator, refrigerator-freezer, and freezer energy conservation standards based on testing according to test procedure waivers. The amendments established in this final rule will not affect the measured energy use for these products, and corresponding compliance with existing energy conservation standards, because the relevant test procedure amendments will not take effect until the compliance date of energy conservation standards for combination cooler refrigeration products. Accordingly, manufacturers of combination cooler refrigeration products will continue to meet these current standards until the compliance date of any applicable MREF standards is reached—at which point, these products will be required to satisfy the new MREF standards.

3. Standby and Off Mode Energy Use

EPCA directs DOE to amend its test procedures to include standby mode and off mode energy consumption. It also requires that this energy consumption be integrated into the overall energy consumption descriptor for the product, unless DOE determines that the current test procedures for the product already fully account for and incorporate the standby and off mode energy consumption of the covered product. (42 U.S.C. 6295(gg)(2)(A)(i)).

The test procedures established in this final rule measure the energy use of the affected products during extended time periods that include periods when the compressor and other key components are cycled off. All of the energy these products use during the "off cycles" would be included in the measurements. A given refrigeration product being tested could include auxiliary features that draw power in a standby or off mode. In such instances, HRF–1–2008, which is incorporated in relevant part into the DOE test procedures, generally instructs manufacturers to set certain auxiliary features to the lowest power position during testing. In this lowest power position, any standby or off mode energy use of such auxiliary features would be included in the energy measurement. Hence, no additional test procedure changes are necessary to account for standby and off mode energy consumption.

VII. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

The Office of Management and Budget (OMB) has determined that coverage determination and test procedure rulemakings do not constitute "significant regulatory actions" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 58 FR 51735 (Oct. 4, 1993). Additionally, the definitions established in this document clarify the definitions of certain specific products already regulated by DOE and those products that are under consideration for potential regulatory coverage. Accordingly, this action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs ("OIRA") in the OMB.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Fairness Act of 1996) requires preparation of an initial regulatory flexibility analysis ("IRFA") for any rule that by law must be proposed for public comment and a final regulatory flexibility analysis ("FRFA") for any such rule that an agency adopts as a final rule, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory flexibility analysis examines the impact of the rule on small entities and considers alternative ways of reducing negative effects. As required by Executive Order 13272, "Proper Consideration of Small Entities in Agency Rulemaking," 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's Web site: *http://energy.gov/gc/office-general-counsel.* DOE reviewed this final rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. DOE has concluded that the rule would not have a significant impact on a substantial number of small entities. The factual basis for this certification is as follows:

For manufacturers of consumer refrigeration products, the Small Business Administration ("SBA") has set a size threshold, which defines those entities classified as "small businesses" for the purposes of the statute. DOE used the SBA's size standards published on January 31, 1996, as amended, to determine whether any small entities would be required to comply with the rule. 61 FR 3280, 3286, as amended at 67 FR 3041, 3045 (Jan. 23, 2002) and at 69 FR 29192, 29203 (May 21, 2004); see also 65 FR 30836, 30850 (May 15, 2000), as amended at 65 FR 53533, 53545 (Sept. 5, 2000). The size standards are codified at 13 CFR part 121. The standards are listed by North American Industry Classification System ("NAICS") code and industry description and are available at *http://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf.* MREF manufacturers are classified under NAICS 335222, "Household Refrigerator and Home Freezer Manufacturing" and NAICS 333415, "Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing." The SBA sets a threshold of 1,250 employees or less for an entity to be considered as a small business for NAICS 335222 and 333415.

In this final rule, DOE establishes coverage and test procedures for MREFs, comprising coolers and combination cooler refrigeration products. As described in section VI.N.2, there are no current DOE energy conservation standards for MREFs; however, certain products that would be considered MREFs currently must meet and certify compliance with, existing refrigerator, refrigerator-freezer, and freezer energy conservation standards.

The test procedures established in this final rule may impact manufacturers who are required to test their products in accordance with these requirements. DOE has analyzed these impacts on small businesses and presents its findings below.

DOE examined the potential impacts of the new testing procedures established in this rulemaking under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. In using these procedures, DOE conducted a more focused inquiry into small business manufacturers of products that would be covered by this proposal. During its market survey, DOE used all available public information to identify potential small manufacturers. DOE's research involved reviewing product databases (*e.g.*, CEC and NRCan databases) and individual company Web sites to create a list of companies that manufacture or sell MREFs. DOE reviewed these data to determine whether the entities met the SBA's definition of a small business manufacturer of MREFs and screened out companies that: (1) Do not offer products that would be affected by the proposed amendments, (2) do not meet the definition of a "small business," or (3) are foreign-owned and operated.

Using the SBA's definition, DOE identified two small businesses that would be affected by this final rule. From its analysis, DOE determined the expected impacts of the final rule on affected small businesses and whether DOE could certify that this rulemaking would not have a significant economic impact on a substantial number of small entities.

This final rule establishes test procedures for manufacturers to use as a basis for representations of the energy efficiency of all coolers beginning on January 17, 2017, and of combination cooler refrigeration products starting on the effective date of energy conservation standards for those products. Coolers are currently regulated by the CEC and NRCan as wine chillers. DOE assumes that such products sold in California and/or Canada are the same products sold in the remaining states. Hence, manufacturers likely have already tested such products in order to report energy use to CEC and/or NRCan. The established test procedures modify the calculation of energy use for these products compared to the calculations used by these regulatory entities, but do not require retesting of individual models. With respect to manufacturers of combination cooler refrigeration products, these manufacturers already apply a test method (through a DOE-granted test procedure waiver) that accounts for the warmer cooler compartment temperatures of these products. Similar to coolers, these products would require a modified calculation of energy use, but would not require retesting. For any products not currently tested by manufacturers, DOE estimates an average of $2,500 per test. This estimate is based on input from third-party testing laboratories for conducting these and similar tests.

FSI commented that DOE's estimate of $2,500 per test is too low, and that it had received quotes of $4,500 per test from two laboratories. (FSI, Test Procedure NOPR, No. 15 at pp. 4–5) As explained earlier in this section, DOE believes that all newly covered products that will be subject to the testing requirements established in this final rule are already tested according to similar test methods. Therefore, DOE does not expect this rule to require any additional manufacturer testing beyond what is currently in place. However, if additional testing were to be required, the costs would likely be within the range identified by DOE and the FSI comment.

The primary cost for small businesses under this rulemaking would result from the aforementioned modified calculations and potential testing requirements. As mentioned above, existing cooler models that are being sold in the U.S. are assumed to have already been tested and would require only an adjustment of the calculated energy use. DOE estimated that 23 basic models of coolers are available from the identified small businesses. DOE estimated that revising the energy use representations for these products would require 220 hours of effort for each manufacturer. The average hourly salary for an engineer completing these tasks is estimated to be $44.36.[11] Fringe benefits are estimated to be 30 percent of total compensation, which brings the hourly costs to employers associated with reviewing and filing of reports to $57.67.[12] Therefore, total costs to small businesses to implement the requirements of this rulemaking are estimated to be $25,000, or an average of $12,500 per small business.

DOE also analyzed the testing cost burden relative to the revenues of small manufacturers. Based on this analysis, DOE estimates that the cost burden for revising representations of coolers ranges from 0.02 to 0.04 percent of annual revenues, depending on the specific small business. DOE concludes that these values are unlikely to represent a significant economic impact for small businesses.

Based on the criteria outlined above, DOE has determined that the test procedures established in this final rule would not have a "significant economic impact on a substantial number of small entities," and the preparation of a regulatory flexibility analysis is not required. DOE has transmitted its certification and supporting statement of factual basis for both the coverage determination and test procedure to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act of 1995

DOE's coverage determination does not impose any new information or record-keeping requirements on manufacturers. Manufacturers of MREFs must test their products in accordance with the DOE test procedure and are required to retain records of that testing. Should DOE promulgate energy conservation standards for MREF products, manufacturers must certify to DOE that their products comply with any applicable energy conservation standards. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment. See 10 CFR part 429, subpart B. The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act ("PRA"). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 30 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

D. Review Under the National Environmental Policy Act of 1969

DOE has determined that MREFs (as defined in this document) meet the criteria for classification as covered products and that future energy conservation standards may be warranted to regulate their energy usage. Should DOE pursue that option, the relevant environmental impacts would be explored as part of that rulemaking. Additionally, this final rule establishes test procedures for MREFs and amends the existing test procedures for refrigerators, refrigerator-freezers, and freezers. DOE has determined that this rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*) and DOE's implementing regulations at 10 CFR part 1021. First, this action establishes a class of products ("MREFs") for which energy conservation standards would be appropriate. However, this action does not establish energy conservation standards, and, therefore, does not result in any environmental impacts. Thus, this action is covered by Categorical Exclusion A6 "Procedural rulemakings" under 10 CFR part 1021, subpart D. Second, this rule amends the existing test procedures without affecting the amount, quality or distribution of energy usage, and, therefore, will not result in any environmental impacts. Thus, this rulemaking is covered by Categorical Exclusion A5 under 10 CFR part 1021, subpart D, which applies to any rulemaking that interprets or amends an existing rule without changing the environmental effect of that rule. Accordingly, under either of these exclusions, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order 13132, "Federalism," 64 FR 43255 (August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE examined this final rule and has determined that it will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) No further action is required by Executive Order 13132.

---

[11] U.S. Department of Labor, Bureau of Labor Statistics. 2011. National Occupational Employment and Wage Estimates. Washington, DC.

[12] U.S. Department of Labor, Bureau of Labor Statistics. 2010. Employer Costs for Employee Compensation—Management, Professional, and Related Employees. Washington, DC.

DOE notes that currently existing State and local level energy conservation standards for MREFs that were prescribed or enacted prior to the publication of any standards that DOE may set for these products will not be preempted until the compliance date of those Federal standards. (42 U.S.C. 6295(ii)(1)).

F. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, "Civil Justice Reform," 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action resulting in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed "significant intergovernmental mandate," and requires an agency plan for giving document and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820 (This policy is also available at *http://energy.gov/gc/office-general-counsel*). DOE examined this final rule according to UMRA and its statement of policy and determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure of $100 million or more in any year. Accordingly, no further assessment or analysis is required under UMRA.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This final rule will not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights" 53 FR 8859 (March 18, 1988), DOE determined that this final determination and final rule does not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed this final rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use," 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OMB, a Statement of Energy Effects for any significant energy action. A "significant energy action" is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use if the regulation is implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This regulatory action establishes coverage over MREFs and determines that they meet the criteria for a covered product for which the Secretary may prescribe an energy conservation standard pursuant to 42 U.S.C. 6295(o) and (p). Additionally, this action sets out certain definitions related to these products and test procedures to measure their energy efficiency. None of these actions, in part or as a whole, comprises a significant regulatory action under Executive Order 12866. Moreover, this rule will not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (''OSTP''), issued its Final Information Quality Bulletin for Peer Review (the Bulletin). 70 FR 2664 (January 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal government, including influential scientific information related to agency regulatory actions. The purpose of the Bulletin is to enhance the quality and credibility of the Government's scientific information. DOE has determined that the analyses conducted for the regulatory action discussed in this document do not constitute ''influential scientific information,'' which the Bulletin defines as ''scientific information the agency reasonably can determine will have or does have a clear and substantial impact on important public policies or private sector decisions.'' 70 FR 2667 (January 14, 2005). The analyses were subject to pre-dissemination review prior to issuance of this rulemaking.

DOE will determine the appropriate level of review that would apply to any future rulemaking to establish energy conservation standards for MREFs.

M. Review Under Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–91; 42 U.S.C. 7101), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977. (15 U.S.C. 788; FEAA) Section 32 essentially provides in relevant part that, where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the Federal Trade Commission (FTC) concerning the impact of the commercial or industry standards on competition. DOE has complied with these requirements.

N. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule before its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

VIII. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this final rule.

List of Subjects

10 CFR Part 429

Confidential business information, Energy conservation, Household appliances, Imports, Reporting and recordkeeping requirements.

10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Incorporation by reference, Intergovernmental relations, Small businesses.

Issued in Washington, DC, on June 10, 2016.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency Energy Efficiency and Renewable Energy.

For the reasons stated in the preamble, DOE is amending parts 429 and 430 of chapter II of title 10, Code of Federal Regulations as set forth below:

PART 429—CERTIFICATION, COMPLIANCE, AND ENFORCEMENT FOR CONSUMER PRODUCTS AND COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 429 continues to read as follows:

Authority: 42 U.S.C. 6291–6317.

■ 2. Section 429.12 is amended by revising the fifth entry of the table in paragraph (d) to read as follows:

§ 429.12 General requirements applicable to certification reports.

* * * * *

(d) * * *

Product category	Deadline for data submission
* * * * * *	*
Residential refrigerators, Residential refrigerators-freezers, Residential freezers, Commercial refrigerator, freezer, and refrigerator-freezer, Automatic commercial automatic ice makers, Refrigerated bottled or canned beverage vending machine, Walk-in coolers, Walk-in freezers, and Miscellaneous refrigeration products.	Aug. 1.
* * * * * *	*

* * * * *

■ 3. Section 429.14 is amended by:

■ a. Revising the section heading and paragraph (a)(3); and

■ b. Adding paragraphs (c) and (d), with paragraphs (c)(2) and (3) stayed indefinitely.

The revisions and additions read as follows:

§ 429.14 Consumer refrigerators, refrigerator-freezers and freezers.

(a) * * *

(3) The value of total refrigerated volume of a basic model reported in accordance with paragraph (b)(2) of this section shall be the mean of the total refrigerated volumes measured for each tested unit of the basic model or the total refrigerated volume of the basic model as calculated in accordance with § 429.72(c). The value of adjusted total volume of a basic model reported in accordance with paragraph (b)(2) of this section shall be the mean of the adjusted total volumes measured for each tested unit of the basic model or the adjusted total volume of the basic model as calculated in accordance with § 429.72(c).

* * * * *

(c) *Rounding requirements for representative values, including certified and rated values.* (1) The represented value of annual energy use must be rounded to the nearest kilowatt hour per year.

(2) The represented value of total refrigerated volume must be rounded to the nearest 0.1 cubic foot.

(3) The represented value of adjusted total volume must be rounded to the nearest 0.1 cubic foot.

(d) *Product category determination.* Each basic model shall be certified according to the appropriate product category as defined in § 430.2 based on compartment volumes and compartment temperatures.

(1) Compartment volumes used to determine product category shall be the mean of the measured compartment volumes for each tested unit of the basic model according to the provisions in section 5.3 of appendix A of subpart B of part 430 of this chapter for refrigerators and refrigerator-freezers and section 5.3 of appendix B of subpart B of part 430 of this chapter for freezers, or the compartment volumes of the basic model as calculated in accordance with § 429.72(d); and

(2) Compartment temperatures used to determine product category shall be the mean of the measured compartment temperatures at the coldest setting for each tested unit of the basic model according to the provisions section 5.1 of appendix A of subpart B of part 430 of this chapter for refrigerators and refrigerator-freezers and section 5.1 of appendix B of subpart B of part 430 of this chapter for freezers.

■ 4. Section 429.61 is added to read as follows:

§ 429.61 Consumer miscellaneous refrigeration products.

(a) *Sampling plan for selection of units for testing.* (1) The requirements of § 429.11 are applicable to miscellaneous refrigeration products; and

(2) For each basic model of miscellaneous refrigeration product, a sample of sufficient size shall be randomly selected and tested to ensure that—

(i) Any represented value of estimated annual operating cost, energy consumption, or other measure of energy consumption of a basic model for which consumers would favor lower values shall be greater than or equal to the higher of:

(A) The mean of the sample, where:

$$\bar{x} = \frac{1}{n}\sum_{i=1}^{n} x_i$$

And, $\bar{x}$ is the sample mean; n is the number of samples; and x_i is the ith sample; or

(B) The upper 95 percent confidence limit (UCL) of the true mean divided by 1.10, where:

$$UCL = \bar{x} + t_{0.95}\left(\frac{s}{\sqrt{n}}\right)$$

And $\bar{x}$ is the sample mean; s is the sample standard deviation; n is the number of samples; and $t_{0.95}$ is the t statistic for a 95% one-tailed confidence interval with n-1 degrees of freedom (from appendix A of this subpart). and

(ii) Any represented value of the energy factor or other measure of energy consumption of a basic model for which consumers would favor higher values shall be less than or equal to the lower of:

(A) The mean of the sample, where:

$$\bar{x} = \frac{1}{n}\sum_{i=1}^{n} x_i$$

And, $\bar{x}$ is the sample mean; n is the number of samples; and x_i is the ith sample; or

(B) The lower 95 percent confidence limit (LCL) of the true mean divided by 0.90, where:

$$LCL = \bar{x} - t_{0.95}\left(\frac{s}{\sqrt{n}}\right)$$

And $\bar{x}$ is the sample mean; s is the sample standard deviation; n is the number of samples; and $t_{0.95}$ is the t statistic for a 95% one-tailed confidence interval with n-1 degrees of freedom (from appendix A of this subpart).

(3) The value of total refrigerated volume of a basic model reported in accordance with paragraph (b)(2) of this section shall be the mean of the total refrigerated volumes measured for each tested unit of the basic model or the total refrigerated volume of the basic model as calculated in accordance with § 429.72(d). The value of adjusted total volume of a basic model reported in accordance with paragraph (b)(2) of this section shall be the mean of the adjusted total volumes measured for each tested unit of the basic model or the adjusted total volume of the basic model as calculated in accordance with § 429.72(d).

(b) *Certification reports.* (1) The requirements of § 429.12 are applicable to miscellaneous refrigeration products; and

(2) Pursuant to § 429.12(b)(13), a certification report must include the following public product-specific information: The annual energy use in kilowatt hours per year (kWh/yr); the total refrigerated volume in cubic feet (cu ft) and the total adjusted volume in cubic feet (cu ft).

(3) Pursuant to § 429.12(b)(13), a certification report coolers or combination cooler refrigeration products shall include the following additional product-specific information: Whether the basic model has variable defrost control (in which case, manufacturers must also report the values, if any, of CT_L and CT_M (for an example, see section 5.2.1.3 in appendix A to subpart B of part 430 of this chapter) used in the calculation of energy consumption), whether the basic model has variable anti-sweat heater control (in which case, manufacturers must also report the values of heater Watts at the ten humidity levels 5%, 15%, through 95% used to calculate the variable anti-sweat heater "Correction Factor"), and whether testing has been conducted with modifications to the standard temperature sensor locations specified by the figures referenced in section 5.1 of appendix A to subpart B of part 430 of this chapter.

(c) *Rounding requirements for representative values, including certified and rated values.* (1) The represented value of annual energy use must be rounded to the nearest kilowatt hour per year.

(2) The represented value of total refrigerated volume must be rounded to the nearest 0.1 cubic foot.

(3) The represented value of adjusted total volume must be rounded to the nearest 0.1 cubic foot.

(d) *Product category determination.* Each basic model of miscellaneous refrigeration product must be certified according to the appropriate product category as defined in § 430.2 based on compartment volumes and compartment temperatures.

(1) Compartment volumes used to determine product category shall be the mean of the measured compartment volumes for each tested unit of the basic model according to the provisions in section 5.3 of appendix A to subpart B of part 430 of this chapter, or the compartment volumes of the basic model as calculated in accordance with § 429.72(d); and

(2) Compartment temperatures used to determine product category shall be the mean of the measured compartment temperatures at the coldest setting for each tested unit of the basic model according to the provisions section 5.1 of appendix A to subpart B of part 430 of this chapter. For cooler compartments with temperatures below 39 °F (3.9 °C) but no lower than 37 °F (2.8 °C), the compartment temperatures used to determine product category shall also include the mean of the measured compartment temperatures at the warmest setting for each tested unit of the basic model according to the provisions section 5.1 of appendix A to subpart B of part 430 of this chapter.

■ 5. Section 429.72 is amended by adding paragraph (d) to read as follows:

§ 429.72 Alternative methods for determining non-energy ratings.

* * * * *

(d) *Miscellaneous refrigeration products.* The total refrigerated volume of a miscellaneous refrigeration product basic model may be determined by performing a calculation of the volume based upon computer-aided design (CAD) models of the basic model in lieu of physical measurements of a production unit of the basic model. Any value of total adjusted volume and value of total refrigerated volume of a basic model reported to DOE in a certification of compliance in accordance with § 429.61(b)(2) must be calculated using the CAD-derived volume(s) and the applicable provisions in the test procedures in part 430 of this chapter for measuring volume. The calculated value must be within two percent, or 0.5 cubic feet (0.2 cubic feet for products with total refrigerated volume less than 7.75 cubic feet (220 liters)), whichever is greater, of the volume of a production unit of the basic model measured in accordance with the applicable test procedure in part 430 of this chapter.

■ 6. Section 429.134 is amended by revising paragraph (b)(1)(ii)(B) and adding paragraph (l) to read as follows:

§ 429.134 Product-specific enforcement provisions.

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(B) If the certified total refrigerated volume is found to be invalid, the average measured adjusted total volume, rounded to the nearest 0.1 cubic foot, will serve as the basis for calculation of maximum allowed energy use for the tested basic model.

* * * * *

(l) *Miscellaneous refrigeration products*—(1) *Verification of total refrigerated volume.* For all miscellaneous refrigeration products, the total refrigerated volume of the basic model will be measured pursuant to the test requirements of part 430 of this chapter for each unit tested. The results of the measurement(s) will be averaged and compared to the value of total refrigerated volume certified by the manufacturer. The certified total refrigerated volume will be considered valid only if:

(i) The measurement is within two percent, or 0.5 cubic feet (0.2 cubic feet for products with total refrigerated volume less than 7.75 cubic feet (220 liters)), whichever is greater, of the certified total refrigerated volume; or

(ii) The measurement is greater than the certified total refrigerated volume.

(A) If the certified total refrigerated volume is found to be valid, the certified adjusted total volume will be used as the basis for calculating the maximum allowed energy use for the tested basic model.

(B) If the certified total refrigerated volume is found to be invalid, the average measured adjusted total volume, rounded to the nearest 0.1 cubic foot, will serve as the basis for calculating the maximum allowed energy use for the tested basic model.

(2) *Test for models with two compartments, each having its own user-operable temperature control.* The test described in section 3.3 of the applicable test procedure in appendix A to subpart B part 430 of this chapter shall be used for all units of a tested basic model before DOE makes a determination of noncompliance with respect to the basic model.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 7. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 8. Section 430.2 is amended by:

■ a. Adding, in alphabetical order, definitions for "all-refrigerator," "built-in compact cooler," "built-in cooler," "combination cooler refrigeration product," "consumer refrigeration product," "cooler," "cooler-all-refrigerator," "cooler-freezer," "cooler-refrigerator," "cooler-refrigerator-freezer," "freestanding compact cooler," "freestanding cooler," and "miscellaneous refrigeration product";

■ b. Revising the definitions for "covered product," "freezer," "refrigerator," and "refrigerator-freezer"; and

■ c. Removing the definitions for "electric refrigerator" and "electric refrigerator-freezer."

The additions and revisions read as follows:

§ 430.2 Definitions.

* * * * *

All-refrigerator means a refrigerator that does not include a compartment capable of maintaining compartment temperatures below 32 °F (0 °C) as determined according to the provisions in § 429.14(d)(2) of this chapter. It may include a compartment of 0.50 cubic-foot capacity (14.2 liters) or less for the freezing and storage of ice.

* * * * *

Built-in compact cooler means any cooler with a total refrigerated volume less than 7.75 cubic feet and no more than 24 inches in depth, excluding doors, handles, and custom front panels, that is designed, intended, and marketed exclusively to be:

(1) Installed totally encased by cabinetry or panels that are attached during installation;

(2) Securely fastened to adjacent cabinetry, walls or floor;

(3) Equipped with unfinished sides that are not visible after installation; and

(4) Equipped with an integral factory-finished face or built to accept a custom front panel.

Built-in cooler means any cooler with a total refrigerated volume of 7.75 cubic feet or greater and no more than 24 inches in depth, excluding doors, handles, and custom front panels; that is designed, intended, and marketed exclusively to be:

(1) Installed totally encased by cabinetry or panels that are attached during installation;

(2) Securely fastened to adjacent cabinetry, walls or floor;

(3) Equipped with unfinished sides that are not visible after installation; and

(4) Equipped with an integral factory-finished face or built to accept a custom front panel.

* * * * *

Combination cooler refrigeration product means any cooler-refrigerator, cooler-refrigerator-freezer, or cooler-freezer.

* * * * *

Consumer refrigeration product means a refrigerator, refrigerator-freezer, freezer, or miscellaneous refrigeration product.

* * * * *

Cooler means a cabinet, used with one or more doors, that has a source of refrigeration capable of operating on single-phase, alternating current and is capable of maintaining compartment temperatures either:

(1) No lower than 39 °F (3.9 °C); or

(2) In a range that extends no lower than 37 °F (2.8 °C) but at least as high as 60 °F (15.6 °C) as determined according to the applicable provisions in § 429.61(d)(2) of this chapter.

Cooler-all-refrigerator means a cooler-refrigerator that does not include a compartment capable of maintaining compartment temperatures below 32 °F (0 °C) as determined according to the provisions in § 429.61(d)(2) of this chapter. It may include a compartment of 0.50 cubic-foot capacity (14.2 liters) or less for the freezing and storage of ice.

Cooler-freezer means a cabinet, used with one or more doors, that has a source of refrigeration that requires single-phase, alternating current electric energy input only, and consists of two or more compartments, including at least one cooler compartment as defined in appendix A of subpart B of this part, where the remaining compartment(s) are capable of maintaining compartment temperatures at 0 °F (−17.8 °C) or below as determined according to the provisions in § 429.61(d)(2) of this chapter.

Cooler-refrigerator means a cabinet, used with one or more doors, that has a source of refrigeration that requires single-phase, alternating current electric energy input only, and consists of two or more compartments, including at least one cooler compartment as defined in appendix A of subpart B of this part, where:

(1) At least one of the remaining compartments is not a cooler compartment as defined in appendix A of subpart B of this part and is capable of maintaining compartment temperatures above 32 °F (0 °C) and below 39 °F (3.9 °C) as determined according to § 429.61(d)(2) of this chapter;

(2) The cabinet may also include a compartment capable of maintaining compartment temperatures below 32 °F (0 °C) as determined according to § 429.61(d)(2) of this chapter; but

(3) The cabinet does not provide a separate low temperature compartment capable of maintaining compartment temperatures below 8 °F (−13.3 °C) as determined according to § 429.61(d)(2) of this chapter.

Cooler-refrigerator-freezer means a cabinet, used with one or more doors, that has a source of refrigeration that requires single-phase, alternating current electric energy input only, and consists of three or more compartments, including at least one cooler compartment as defined in appendix A of subpart B of this part, where:

(1) At least one of the remaining compartments is not a cooler compartment as defined in appendix A of subpart B of this part and is capable of maintaining compartment temperatures above 32 °F (0 °C) and below 39 °F (3.9 °C) as determined according to § 429.61(d)(2) of this chapter; and

(2) At least one other compartment is capable of maintaining compartment temperatures below 8 °F (−13.3 °C) and may be adjusted by the user to a temperature of 0 °F (−17.8 °C) or below as determined according to § 429.61(d)(2) of this chapter.

* * * * *

Covered product means a consumer product—

(1) Of a type specified in section 322 of the Act; or

(2) That is a ceiling fan, ceiling fan light kit, medium base compact fluorescent lamp, dehumidifier, battery charger, external power supply, torchiere, portable air conditioner, or miscellaneous refrigeration product.

* * * * *

Freestanding compact cooler means any cooler, excluding built-in compact coolers, with a total refrigerated volume less than 7.75 cubic feet.

Freestanding cooler means any cooler, excluding built-in coolers, with a total refrigerated volume of 7.75 cubic feet or greater.

Freezer means a cabinet, used with one or more doors, that has a source of refrigeration that requires single-phase, alternating current electric energy input only and is capable of maintaining compartment temperatures of 0 °F (−17.8 °C) or below as determined according to the provisions in § 429.14(d)(2) of this chapter. It does not include any refrigerated cabinet that consists solely of an automatic ice maker and an ice storage bin arranged so that operation of the automatic icemaker fills the bin to its capacity. However, the term does not include:

(1) Any product that does not include a compressor and condenser unit as an integral part of the cabinet assembly; or

(2) Any miscellaneous refrigeration product that must comply with an applicable miscellaneous refrigeration product energy conservation standard.

* * * * *

Miscellaneous refrigeration product means a consumer refrigeration product other than a refrigerator, refrigerator-freezer, or freezer, which includes coolers and combination cooler refrigeration products.

* * * * *

Refrigerator means a cabinet, used with one or more doors, that has a source of refrigeration that requires single-phase, alternating current electric energy input only and is capable of maintaining compartment temperatures above 32 °F (0 °C) and below 39 °F (3.9 °C) as determined according to § 429.14(d)(2) of this chapter. A refrigerator may include a compartment capable of maintaining compartment temperatures below 32 °F (0 °C), but does not provide a separate low temperature compartment capable of maintaining compartment temperatures below 8 °F (−13.3 °C) as determined according to § 429.14(d)(2). However, the term does not include:

(1) Any product that does not include a compressor and condenser unit as an integral part of the cabinet assembly;

(2) A cooler; or

(3) Any miscellaneous refrigeration product that must comply with an applicable miscellaneous refrigeration product energy conservation standard.

Refrigerator-freezer means a cabinet, used with one or more doors, that has a source of refrigeration that requires single-phase, alternating current electric energy input only and consists of two or more compartments where at least one of the compartments is capable of maintaining compartment temperatures above 32 °F (0 °C) and below 39 °F (3.9 °C) as determined according to § 429.14(d)(2) of this chapter, and at least one other compartment is capable of maintaining compartment temperatures of 8 °F (−13.3 °C) and may be adjusted by the user to a temperature of 0 °F (−17.8 °C) or below as determined according to § 429.14(d)(2). However, the term does not include:

(1) Any product that does not include a compressor and condenser unit as an integral part of the cabinet assembly; or

(2) Any miscellaneous refrigeration product that must comply with an applicable miscellaneous refrigeration product energy conservation standard.

* * * * *

§ 430.3 [Amended]

■ 9. Section 430.3 is amended by:

■ a. Removing paragraph (i)(5); and

■ b. Redesignating paragraphs (i)(6) through (8) as paragraphs (i)(5) through (7).

■ 10. Section 430.23 is amended by:

■ a. Revising paragraphs (a) and (b); and

■ b. Adding paragraph (dd).

The revisions and additions read as follows:

§ 430.23 Test procedures for the measurement of energy and water consumption.

* * * * *

(a) *Refrigerators and refrigerator-freezers.* (1) The estimated annual operating cost for models without an anti-sweat heater switch shall be the product of the following three factors, with the resulting product then being rounded to the nearest dollar per year:

(i) The representative average-use cycle of 365 cycles per year;

(ii) The average per-cycle energy consumption for the standard cycle in kilowatt-hours per cycle, determined according to section 6.2 of appendix A of this subpart; and

(iii) The representative average unit cost of electricity in dollars per kilowatt-hour as provided by the Secretary.

(2) The estimated annual operating cost for models with an anti-sweat

heater switch shall be the product of the following three factors, with the resulting product then being rounded to the nearest dollar per year:

(i) The representative average-use cycle of 365 cycles per year;

(ii) Half the sum of the average per-cycle energy consumption for the standard cycle and the average per-cycle energy consumption for a test cycle type with the anti-sweat heater switch in the position set at the factory just before shipping, each in kilowatt-hours per cycle, determined according to section 6.2 of appendix A of this subpart; and

(iii) The representative average unit cost of electricity in dollars per kilowatt-hour as provided by the Secretary.

(3) The estimated annual operating cost for any other specified cycle type shall be the product of the following three factors, the resulting product then being rounded to the nearest dollar per year:

(i) The representative average-use cycle of 365 cycles per year;

(ii) The average per-cycle energy consumption for the specified cycle type, determined according to section 6.2 of appendix A of this subpart; and

(iii) The representative average unit cost of electricity in dollars per kilowatt-hour as provided by the Secretary.

(4) The energy factor, expressed in cubic feet per kilowatt-hour per cycle, shall be:

(i) For models without an anti-sweat heater switch, the quotient of:

(A) The adjusted total volume in cubic feet, determined according to section 6.1 of appendix A of this subpart, divided by—

(B) The average per-cycle energy consumption for the standard cycle in kilowatt-hours per cycle, determined according to section 6.2 of appendix A of this subpart, the resulting quotient then being rounded to the second decimal place; and

(ii) For models having an anti-sweat heater switch, the quotient of:

(A) The adjusted total volume in cubic feet, determined according to 6.1 of appendix A of this subpart, divided by—

(B) Half the sum of the average per-cycle energy consumption for the standard cycle and the average per-cycle energy consumption for a test cycle type with the anti-sweat heater switch in the position set at the factory just before shipping, each in kilowatt-hours per cycle, determined according to section 6.2 of appendix A of this subpart, the resulting quotient then being rounded to the second decimal place.

(5) The annual energy use, expressed in kilowatt-hours per year, shall be the following, rounded to the nearest kilowatt-hour per year:

(i) For models without an anti-sweat heater switch, the representative average use cycle of 365 cycles per year multiplied by the average per-cycle energy consumption for the standard cycle in kilowatt-hours per cycle, determined according to section 6.2 of appendix A of this subpart; and

(ii) For models having an anti-sweat heater switch, the representative average use cycle of 365 cycles per year multiplied by half the sum of the average per-cycle energy consumption for the standard cycle and the average per-cycle energy consumption for a test cycle type with the anti-sweat heater switch in the position set at the factory just before shipping, each in kilowatt-hours per cycle, determined according to section 6.2 of appendix A of this subpart.

(6) Other useful measures of energy consumption shall be those measures of energy consumption that the Secretary determines are likely to assist consumers in making purchasing decisions which are derived from the application of appendix A of this subpart.

(7) The following principles of interpretation shall be applied to the test procedure. The intent of the energy test procedure is to simulate typical room conditions (72 °F (22.2 °C)) with door openings, by testing at 90 °F (32.2 °C) without door openings. Except for operating characteristics that are affected by ambient temperature (for example, compressor percent run time), the unit, when tested under this test procedure, shall operate in a manner equivalent to the unit's operation while in typical room conditions.

(i) The energy used by the unit shall be calculated when a calculation is provided by the test procedure. Energy consuming components that operate in typical room conditions (including as a result of door openings, or a function of humidity), and that are not excluded by this test procedure, shall operate in an equivalent manner during energy testing under this test procedure, or be accounted for by all calculations as provided for in the test procedure. Examples:

(A) Energy saving features that are designed to operate when there are no door openings for long periods of time shall not be functional during the energy test.

(B) The defrost heater shall neither function nor turn off differently during the energy test than it would when in typical room conditions. Also, the product shall not recover differently during the defrost recovery period than it would in typical room conditions.

(C) Electric heaters that would normally operate at typical room conditions with door openings shall also operate during the energy test.

(D) Energy used during adaptive defrost shall continue to be measured and adjusted per the calculation provided in this test procedure.

(ii) DOE recognizes that there may be situations that the test procedures do not completely address. In such cases, a manufacturer must obtain a waiver in accordance with the relevant provisions of 10 CFR part 430 if:

(A) A product contains energy consuming components that operate differently during the prescribed testing than they would during representative average consumer use; and

(B) Applying the prescribed test to that product would evaluate it in a manner that is unrepresentative of its true energy consumption (thereby providing materially inaccurate comparative data).

(b) *Freezers.* (1) The estimated annual operating cost for freezers without an anti-sweat heater switch shall be the product of the following three factors, with the resulting product then being rounded to the nearest dollar per year:

(i) The representative average-use cycle of 365 cycles per year;

(ii) The average per-cycle energy consumption for the standard cycle in kilowatt-hours per cycle, determined according to section 6.2 of appendix B of this subpart; and

(iii) The representative average unit cost of electricity in dollars per kilowatt-hour as provided by the Secretary.

(2) The estimated annual operating cost for freezers with an anti-sweat heater switch shall be the product of the following three factors, with the resulting product then being rounded to the nearest dollar per year:

(i) The representative average-use cycle of 365 cycles per year;

(ii) Half the sum of the average per-cycle energy consumption for the standard cycle and the average per-cycle energy consumption for a test cycle type with the anti-sweat heater switch in the position set at the factory just before shipping, each in kilowatt-hours per cycle, determined according to section 6.2 of appendix B of this subpart; and

(iii) The representative average unit cost of electricity in dollars per kilowatt-hour as provided by the Secretary.

(3) The estimated annual operating cost for any other specified cycle type for freezers shall be the product of the

following three factors, with the resulting product then being rounded to the nearest dollar per year:

(i) The representative average-use cycle of 365 cycles per year;

(ii) The average per-cycle energy consumption for the specified cycle type, determined according to section 6.2 of appendix B of this subpart; and

(iii) The representative average unit cost of electricity in dollars per kilowatt-hour as provided by the Secretary.

(4) The energy factor for freezers, expressed in cubic feet per kilowatt-hour per cycle, shall be:

(i) For freezers not having an anti-sweat heater switch, the quotient of:

(A) The adjusted net refrigerated volume in cubic feet, determined according to section 6.1 of appendix B of this subpart, divided by—

(B) The average per-cycle energy consumption for the standard cycle in kilowatt-hours per cycle, determined according to 6.2 of appendix B of this subpart, with the resulting quotient then being rounded to the second decimal place; and

(ii) For freezers having an anti-sweat heater switch, the quotient of:

(A) The adjusted net refrigerated volume in cubic feet, determined according to section 6.1 of appendix B of this subpart, divided by—

(B) Half the sum of the average per-cycle energy consumption for the standard cycle and the average per-cycle energy consumption for a test cycle type with the anti-sweat heater switch in the position set at the factory just before shipping, each in kilowatt-hours per cycle, determined according to section 6.2 of appendix B of this subpart, with the resulting quotient then being rounded to the second decimal place.

(5) The annual energy use of all freezers, expressed in kilowatt-hours per year, shall be the following, rounded to the nearest kilowatt-hour per year:

(i) For freezers not having an anti-sweat heater switch, the representative average use cycle of 365 cycles per year multiplied by the average per-cycle energy consumption for the standard cycle in kilowatt-hours per cycle, determined according to section 6.2 of appendix B of this subpart; and

(ii) For freezers having an anti-sweat heater switch, the representative average use cycle of 365 cycles per year multiplied by half the sum of the average per-cycle energy consumption for the standard cycle and the average per-cycle energy consumption for a test cycle type with the anti-sweat heater switch in the position set at the factory just before shipping, each in kilowatt-hours per cycle, determined according to section 6.2 of appendix B of this subpart.

(6) Other useful measures of energy consumption for freezers shall be those measures the Secretary determines are likely to assist consumers in making purchasing decisions and are derived from the application of appendix B of this subpart.

(7) The following principles of interpretation shall be applied to the test procedure. The intent of the energy test procedure is to simulate typical room conditions (72 °F (22.2 °C)) with door openings by testing at 90 °F (32.2 °C) without door openings. Except for operating characteristics that are affected by ambient temperature (for example, compressor percent run time), the unit, when tested under this test procedure, shall operate in a manner equivalent to the unit's operation while in typical room conditions.

(i) The energy used by the unit shall be calculated when a calculation is provided by the test procedure. Energy consuming components that operate in typical room conditions (including as a result of door openings, or a function of humidity), and that are not excluded by this test procedure, shall operate in an equivalent manner during energy testing under this test procedure, or be accounted for by all calculations as provided for in the test procedure. Examples:

(A) Energy saving features that are designed to operate when there are no door openings for long periods of time shall not be functional during the energy test.

(B) The defrost heater shall neither function nor turn off differently during the energy test than it would when in typical room conditions. Also, the product shall not recover differently during the defrost recovery period than it would in typical room conditions.

(C) Electric heaters that would normally operate at typical room conditions with door openings shall also operate during the energy test.

(D) Energy used during adaptive defrost shall continue to be measured and adjusted per the calculation provided for in this test procedure.

(ii) DOE recognizes that there may be situations that the test procedures do not completely address. In such cases, a manufacturer must obtain a waiver in accordance with the relevant provisions of this part if:

(A) A product contains energy consuming components that operate differently during the prescribed testing than they would during representative average consumer use; and

(B) Applying the prescribed test to that product would evaluate it in a manner that is unrepresentative of its true energy consumption (thereby providing materially inaccurate comparative data).

* * * * *

(dd) *Coolers and combination cooler refrigeration products.* (1) The estimated annual operating cost for models without an anti-sweat heater switch shall be the product of the following three factors, with the resulting product then being rounded to the nearest dollar per year:

(i) The representative average-use cycle of 365 cycles per year;

(ii) The average per-cycle energy consumption for the standard cycle in kilowatt-hours per cycle, determined according to section 6.2 of appendix A of this subpart; and

(iii) The representative average unit cost of electricity in dollars per kilowatt-hour as provided by the Secretary.

(2) The estimated annual operating cost for models with an anti-sweat heater switch shall be the product of the following three factors, with the resulting product then being rounded to the nearest dollar per year:

(i) The representative average-use cycle of 365 cycles per year;

(ii) Half the sum of the average per-cycle energy consumption for the standard cycle and the average per-cycle energy consumption for a test cycle type with the anti-sweat heater switch in the position set at the factory just before shipping, each in kilowatt-hours per cycle, determined according to section 6.2 of appendix A of this subpart; and

(iii) The representative average unit cost of electricity in dollars per kilowatt-hour as provided by the Secretary.

(3) The estimated annual operating cost for any other specified cycle type shall be the product of the following three factors, with the resulting product then being rounded to the nearest dollar per year:

(i) The representative average-use cycle of 365 cycles per year;

(ii) The average per-cycle energy consumption for the specified cycle type, determined according to section 6.2 of appendix A to this subpart; and

(iii) The representative average unit cost of electricity in dollars per kilowatt-hour as provided by the Secretary.

(4) The energy factor, expressed in cubic feet per kilowatt-hour per cycle, shall be:

(i) For models without an anti-sweat heater switch, the quotient of:

(A) The adjusted total volume in cubic feet, determined according to section 6.1 of appendix A of this subpart, divided by—

(B) The average per-cycle energy consumption for the standard cycle in kilowatt-hours per cycle, determined according to section 6.2 of appendix A of this subpart, with the resulting quotient then being rounded to the second decimal place; and

(ii) For models having an anti-sweat heater switch, the quotient of:

(A) The adjusted total volume in cubic feet, determined according to section 6.1 of appendix A of this subpart, divided by—

(B) Half the sum of the average per-cycle energy consumption for the standard cycle and the average per-cycle energy consumption for a test cycle type with the anti-sweat heater switch in the position set at the factory just before shipping, each in kilowatt-hours per cycle, determined according to section 6.2 of appendix A of this subpart, with the resulting quotient then being rounded to the second decimal place.

(5) The annual energy use, expressed in kilowatt-hours per year, shall be the following, rounded to the nearest kilowatt-hour per year:

(i) For models without an anti-sweat heater switch, the representative average use cycle of 365 cycles per year multiplied by the average per-cycle energy consumption for the standard cycle in kilowatt-hours per cycle, determined according to section 6.2 of appendix A of this subpart; and

(ii) For models having an anti-sweat heater switch, the representative average use cycle of 365 cycles per year multiplied by half the sum of the average per-cycle energy consumption for the standard cycle and the average per-cycle energy consumption for a test cycle type with the anti-sweat heater switch in the position set at the factory just before shipping, each in kilowatt-hours per cycle, determined according to section 6.2 of appendix A of this subpart.

(6) Other useful measures of energy consumption shall be those measures of energy consumption that the Secretary determines are likely to assist consumers in making purchasing decisions which are derived from the application of appendix A of this subpart.

(7) The following principles of interpretation shall be applied to the test procedure. The intent of the energy test procedure is to simulate operation in typical room conditions (72 °F (22.2 °C)) with door openings by testing at 90 °F (32.2 °C) ambient temperature without door openings. Except for operating characteristics that are affected by ambient temperature (for example, compressor percent run time), the unit, when tested under this test procedure, shall operate in a manner equivalent to the unit's operation while in typical room conditions.

(i) The energy used by the unit shall be calculated when a calculation is provided by the test procedure. Energy consuming components that operate in typical room conditions (including as a result of door openings, or a function of humidity), and that are not excluded by this test procedure, shall operate in an equivalent manner during energy testing under this test procedure, or be accounted for by all calculations as provided for in the test procedure. Examples:

(A) Energy saving features that are designed to operate when there are no door openings for long periods of time shall not be functional during the energy test.

(B) The defrost heater shall neither function nor turn off differently during the energy test than it would when in typical room conditions. Also, the product shall not recover differently during the defrost recovery period than it would in typical room conditions.

(C) Electric heaters that would normally operate at typical room conditions with door openings shall also operate during the energy test.

(D) Energy used during adaptive defrost shall continue to be measured and adjusted per the calculation provided for in this test procedure.

(ii) DOE recognizes that there may be situations that the test procedures do not completely address. In such cases, a manufacturer must obtain a waiver in accordance with the relevant provisions of this part if:

(A) A product contains energy consuming components that operate differently during the prescribed testing than they would during representative average consumer use; and

(B) Applying the prescribed test to that product would evaluate it in a manner that is unrepresentative of its true energy consumption (thereby providing materially inaccurate comparative data).

(8) For non-compressor models, "compressor" and "compressor cycles" as used in appendix A of this subpart shall be interpreted to mean "refrigeration system" and "refrigeration system cycles," respectively.

■ 11. Appendix A to subpart B is amended by revising the heading, introductory text and sections 1, 2, 3, 4.2.1.1, 4.2.1.2, 5, 6, and 7 to read as follows:

Appendix A to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Refrigerators, Refrigerator-Freezers, and Miscellaneous Refrigeration Products

Note: For refrigerators and refrigerator-freezers, the rounding requirements specified in sections 5.3.e and 6.1 of this appendix are not required for use until the compliance date of any amended energy conservation standards for these products. For combination cooler refrigeration products, manufacturers must use the test procedures in this appendix for all representations of energy use starting on the compliance date of any energy conservation standards for these products. For all other miscellaneous refrigeration products (*e.g.* coolers), manufacturers must use the test procedures in this appendix for all representations of energy use on or after January 17, 2017.

1. Definitions

Section 3, *Definitions*, of HRF–1–2008 (incorporated by reference; see § 430.3) applies to this test procedure, except that the term "wine chiller" means "cooler" as defined in § 430.2 and the term "wine chiller compartment" means "cooler compartment" as defined in this appendix.

Anti-sweat heater means a device incorporated into the design of a product to prevent the accumulation of moisture on the exterior or interior surfaces of the cabinet.

Anti-sweat heater switch means a user-controllable switch or user interface which modifies the activation or control of anti-sweat heaters.

AS/NZS 4474.1:2007 means Australian/New Zealand Standard 4474.1:2007, Performance of household electrical appliances—Refrigerating appliances, Part 1: Energy consumption and performance. Only sections of AS/NZS 4474.1:2007 (incorporated by reference; see § 430.3) specifically referenced in this test procedure are part of this test procedure. In cases where there is a conflict, the language of the test procedure in this appendix takes precedence over AS/NZS 4474.1:2007.

Automatic defrost means a system in which the defrost cycle is automatically initiated and terminated, with resumption of normal refrigeration at the conclusion of the defrost operation. The system automatically prevents the permanent formation of frost on all refrigerated surfaces.

Automatic icemaker means a device that can be supplied with water without user intervention, either from a pressurized water supply system or by transfer from a water reservoir located inside the cabinet, that automatically produces, harvests, and stores ice in a storage bin, with means to automatically interrupt the harvesting operation when the ice storage bin is filled to a pre-determined level.

Cooler compartment means a refrigerated compartment designed exclusively for wine or other beverages within a consumer refrigeration product that is capable of maintaining compartment temperatures either (a) no lower than 39 °F (3.9 °C), or (b) in a range that extends no lower than 37 °F (2.8 °C) but at least as high as 60 °F (15.6 °C) as determined according to § 429.14(d)(2) or § 429.61(d)(2) of this chapter.

Complete temperature cycle means a time period defined based upon the cycling of compartment temperature that starts when the compartment temperature is at a maximum and ends when the compartment temperature returns to an equivalent maximum (within 0.5 °F of the starting temperature), having in the interim fallen to a minimum and subsequently risen again to reach the second maximum. Alternatively, a complete temperature cycle can be defined to start when the compartment temperature is at a minimum and ends when the compartment temperature returns to an equivalent minimum (within 0.5 °F of the starting temperature), having in the interim risen to a maximum and subsequently fallen again to reach the second minimum.

Cycle means a 24-hour period for which the energy use of a product is calculated based on the consumer-activated compartment temperature controls being set to maintain the standardized temperatures (see section 3.2 of this appendix).

Cycle type means the set of test conditions having the calculated effect of operating a product for a period of 24 hours, with the consumer-activated controls, other than those that control compartment temperatures, set to establish various operating characteristics.

Defrost cycle type means a distinct sequence of control whose function is to remove frost and/or ice from a refrigerated surface. There may be variations in the defrost control sequence, such as the number of defrost heaters energized. Each such variation establishes a separate, distinct defrost cycle type. However, defrost achieved regularly during the compressor off-cycles by warming of the evaporator without active heat addition, although a form of automatic defrost, does not constitute a unique defrost cycle type for the purposes of identifying the test period in accordance with section 4 of this appendix.

HRF–1–2008 means AHAM Standard HRF–1–2008, Association of Home Appliance Manufacturers, Energy and Internal Volume of Refrigerating Appliances (2008), including Errata to Energy and Internal Volume of Refrigerating Appliances, Correction Sheet issued November 17, 2009. Only sections of HRF–1–2008 (incorporated by reference; see § 430.3) specifically referenced in this test procedure are part of this test procedure. In cases where there is a conflict, the language of the test procedure in this appendix takes precedence over HRF–1–2008.

Ice storage bin means a container in which ice can be stored.

Long-time automatic defrost means an automatic defrost system whose successive defrost cycles are separated by 14 hours or more of compressor operating time.

Multiple-compressor product means a consumer refrigeration product with more than one compressor.

Multiple refrigeration system product means a multiple-compressor product or a miscellaneous refrigeration product with more than one refrigeration system for which the operation of the systems is not coordinated. For non-compressor multiple refrigeration system products, "multiple-compressor product" as used in this appendix shall be interpreted to mean "multiple refrigeration system product."

Precooling means operating a refrigeration system before initiation of a defrost cycle to reduce one or more compartment temperatures significantly (more than 0.5 °F) below its minimum during stable operation between defrosts.

Recovery means operating a refrigeration system after the conclusion of a defrost cycle to reduce the temperature of one or more compartments to the temperature range that the compartment(s) exhibited during stable operation between defrosts.

Separate auxiliary compartment means a separate freezer, fresh food, or cooler compartment that is not the primary freezer, primary fresh food, or primary cooler compartment. Separate auxiliary compartments may also be convertible (*e.g.*, from fresh food to freezer). Separate auxiliary compartments may not be larger than the primary compartment of their type, but such size restrictions do not apply to separate auxiliary convertible compartments.

Special compartment means any compartment other than a butter conditioner or a cooler compartment, without doors directly accessible from the exterior, and with separate temperature control (such as crispers convertible to meat keepers) that is not convertible from the fresh food temperature range to the freezer temperature range.

Stable operation means operation after steady-state conditions have been achieved but excluding any events associated with defrost cycles. During stable operation the average rate of change of compartment temperatures must not exceed 0.042 °F (0.023 °C) per hour for all compartment temperatures. Such a calculation performed for compartment temperatures at any two times, or for any two periods of time comprising complete cycles, during stable operation must meet this requirement.

(a) If compartment temperatures do not cycle, the relevant calculation shall be the difference between the temperatures at two points in time divided by the difference, in hours, between those points in time.

(b) If compartment temperatures cycle as a result of compressor cycling or other cycling operation of any system component (*e.g.*, a damper, fan, heater, etc.), the relevant calculation shall be the difference between compartment temperature averages evaluated for the whole compressor cycles or complete temperature cycles divided by the difference, in hours, between either the starts, ends, or mid-times of the two cycles.

Stabilization period means the total period of time during which steady-state conditions are being attained or evaluated.

Standard cycle means the cycle type in which the anti-sweat heater control, when provided, is set in the highest energy-consuming position.

Through-the-door ice/water dispenser means a device incorporated within the cabinet, but outside the boundary of the refrigerated space, that delivers to the user on demand ice and may also deliver water from within the refrigerated space without opening an exterior door. This definition includes dispensers that are capable of dispensing ice and water or ice only.

Variable anti-sweat heater control means an anti-sweat heater control that varies the average power input of the anti-sweat heater(s) based on operating condition variable(s) and/or ambient condition variable(s).

Variable defrost control means an automatic defrost system in which successive defrost cycles are determined by an operating condition variable (or variables) other than solely compressor operating time. This includes any electrical or mechanical device performing this function. A control scheme that changes the defrost interval from a fixed length to an extended length (without any intermediate steps) is not considered a variable defrost control. A variable defrost control feature predicts the accumulation of frost on the evaporator and reacts accordingly. Therefore, the times between defrost must vary with different usage patterns and include a continuum of periods between defrosts as inputs vary.

2. Test Conditions

2.1 Ambient Temperature Measurement. Temperature measuring devices shall be shielded so that indicated temperatures are not affected by the operation of the condensing unit or adjacent units.

2.1.1 Ambient Temperature. Measure and record the ambient temperature at points located 3 feet (91.5 cm) above the floor and 10 inches (25.4 cm) from the center of the two sides of the unit under test. The ambient temperature shall be 90.0 ± 1 °F (32.2 ± 0.6 °C) during the stabilization period and the test period.

2.1.2 Ambient Temperature Gradient. The test room vertical ambient temperature gradient in any foot of vertical distance from 2 inches (5.1 cm) above the floor or supporting platform to a height of 1 foot (30.5 cm) above the top of the unit under test is not to exceed 0.5 °F per foot (0.9 °C per meter). The vertical ambient temperature gradient at locations 10 inches (25.4 cm) out from the centers of the two sides of the unit being tested is to be maintained during the test. To demonstrate that this requirement has been met, test data must include measurements taken using temperature sensors at locations 10 inches (25.4 cm) from the center of the two sides of the unit under test at heights of 2 inches (5.1 cm) and 36 inches (91.4 cm) above the floor or supporting platform and at a height of 1 foot (30.5 cm) above the unit under test.

2.1.3 Platform. A platform must be used if the floor temperature is not within 3 °F (1.7 °C) of the measured ambient temperature. If a platform is used, it is to have a solid top with all sides open for air circulation underneath, and its top shall extend at least 1 foot (30.5 cm) beyond each side and the front of the unit under test and extend to the wall in the rear.

2.2 Operational Conditions. The unit under test shall be installed and its operating conditions maintained in accordance with HRF–1–2008 (incorporated by reference; see § 430.3), sections 5.3.2 through 5.5.5.5 (excluding section 5.5.5.4). Exceptions and clarifications to the cited sections of HRF–1–

2008 are noted in sections 2.3 through 2.8 and 5.1 of this appendix.

2.3 Anti-Sweat Heaters. The anti-sweat heater switch is to be on during one test and off during a second test. In the case of a unit equipped with variable anti-sweat heater control, the standard cycle energy use shall be the result of the calculation described in section 6.2.5 of this appendix.

2.4 Conditions for Automatic Defrost Refrigerator-Freezers, Cooler-Refrigerator-Freezers and Cooler-Freezers. For these products, the freezer compartments shall not be loaded with any frozen food packages during testing. Cylindrical metallic masses of dimensions 1.12 ± 0.25 inches (2.9 ± 0.6 cm) in diameter and height shall be attached in good thermal contact with each temperature sensor within the refrigerated compartments. All temperature measuring sensor masses shall be supported by low-thermal-conductivity supports in such a manner to ensure that there will be at least 1 inch (2.5 cm) of air space separating the thermal mass from contact with any interior surface or hardware inside the cabinet. In case of interference with hardware at the sensor locations specified in section 5.1 of this appendix, the sensors shall be placed at the nearest adjacent location such that there will be a 1-inch air space separating the sensor mass from the hardware.

2.5 Conditions for All-Refrigerators and Cooler-All-Refrigerators. There shall be no load in the freezer compartment during the test.

2.6 The cabinet and its refrigerating mechanism shall be assembled and set up in accordance with the printed consumer instructions supplied with the cabinet. Set-up of the test unit shall not deviate from these instructions, unless explicitly required or allowed by this test procedure. Specific required or allowed deviations from such set-up include the following:

(a) Connection of water lines and installation of water filters are not required;

(b) Clearance requirements from surfaces of the product shall be as described in section 2.8 of this appendix;

(c) The electric power supply shall be as described in HRF–1–2008 (incorporated by reference; see § 430.3), section 5.5.1;

(d) Temperature control settings for testing shall be as described in section 3 of this appendix. Settings for convertible compartments and other temperature-controllable or special compartments shall be as described in section 2.7 of this appendix;

(e) The product does not need to be anchored or otherwise secured to prevent tipping during energy testing;

(f) All the product's chutes and throats required for the delivery of ice shall be free of packing, covers, or other blockages that may be fitted for shipping or when the icemaker is not in use; and

(g) Ice storage bins shall be emptied of ice.

For cases in which set-up is not clearly defined by this test procedure, manufacturers must submit a petition for a waiver (see section 7 of this appendix).

2.7 Compartments that are convertible (*e.g.*, from fresh food to freezer or cooler) shall be operated in the highest energy use position. A compartment may be considered to be convertible to a cooler compartment if it is capable of maintaining compartment temperatures at least as high as 55 °F (12.8 °C) and also capable of operating at storage temperatures less than 37 °F. For the special case of convertible separate auxiliary compartments, this means that the compartment shall be treated as a freezer compartment, a fresh food compartment, or a cooler compartment, depending on which of these represents the highest energy use.

Special compartments shall be tested with controls set to provide the coldest temperature. However, for special compartments in which temperature control is achieved using the addition of heat (including resistive electric heating, refrigeration system waste heat, or heat from any other source, but excluding the transfer of air from another part of the interior of the product) for any part of the controllable temperature range of that compartment, the product energy use shall be determined by averaging two sets of tests. The first set of tests shall be conducted with such special compartments at their coldest settings, and the second set of tests shall be conducted with such special compartments at their warmest settings. The requirements for the warmest or coldest temperature settings of this section do not apply to features or functions associated with temperature controls (such as fast chill compartments) that are initiated manually and terminated automatically within 168 hours.

Movable subdividing barriers that separate compartments shall be placed in the median position. If such a subdividing barrier has an even number of positions, the near-median position representing the smallest volume of the warmer compartment(s) shall be used.

2.8 Rear Clearance.

(a) General. The space between the lowest edge of the rear plane of the cabinet and a vertical surface (the test room wall or simulated wall) shall be the minimum distance in accordance with the manufacturer's instructions, unless other provisions of this section apply. The rear plane shall be considered to be the largest flat surface at the rear of the cabinet, excluding features that protrude beyond this surface, such as brackets or compressors.

(b) Maximum clearance. The clearance shall not be greater than 2 inches (51 mm) from the lowest edge of the rear plane to the vertical surface, unless the provisions of paragraph (c) of this section apply.

(c) If permanent rear spacers or other components that protrude beyond the rear plane extend further than the 2-inch (51 mm) distance, or if the highest edge of the rear plane is in contact with the vertical surface when the unit is positioned with the lowest edge of the rear plane at or further than the 2-inch (51 mm) distance from the vertical surface, the appliance shall be located with the spacers or other components protruding beyond the rear plane, or the highest edge of the rear plane, in contact with the vertical surface.

(d) Rear-mounted condensers. If the product has a flat rear-wall-mounted condenser (*i.e.*, a rear-wall-mounted condenser with all refrigerant tube centerlines within 0.25 inches (6.4 mm) of the condenser plane), and the area of the condenser plane represents at least 25% of the total area of the rear wall of the cabinet, then the spacing to the vertical surface may be measured from the lowest edge of the condenser plane.

2.9 Steady-State Condition. Steady-state conditions exist if the temperature measurements in all measured compartments taken at 4-minute intervals or less during a stabilization period are not changing at a rate greater than 0.042 °F (0.023 °C) per hour as determined by the applicable condition of paragraph (a) or (b) of this section.

(a) The average of the measurements during a 2-hour period if no cycling occurs or during a number of complete repetitive compressor cycles occurring through a period of no less than 2 hours is compared to the average over an equivalent time period with 3 hours elapsing between the two measurement periods.

(b) If paragraph (a) of this section cannot be used, the average of the measurements during a number of complete repetitive compressor cycles occurring through a period of no less than 2 hours and including the last complete cycle before a defrost period (or if no cycling occurs, the average of the measurements during the last 2 hours before a defrost period) are compared to the same averaging period before the following defrost period.

2.10 Products with Demand-Response Capability. Products that have a communication module for demand-response functions that is located within the cabinet shall be tested with the communication module in the configuration set at the factory just before shipping.

3. Test Control Settings

3.1 Model with No User-Operable Temperature Control. A test shall be performed to measure the compartment temperatures and energy use. A second test shall be performed with the temperature control electrically short circuited to cause the compressor to run continuously (or to cause the non-compressor refrigeration system to run continuously at maximum capacity).

3.2 Models with User-Operable Temperature Control. Testing shall be performed in accordance with the procedure in this section using the following standardized temperatures:

39 °F (3.9 °C) fresh food compartment temperature;

0 °F (−17.8 °C) freezer compartment temperature, except for freezer compartments in refrigerators and cooler-refrigerators, in which case testing would use a 15 °F (−9.4 °C) freezer compartment temperature; and

55 °F (12.8 °C) cooler compartment temperature.

For the purposes of comparing compartment temperatures with standardized temperatures, as described in sections 3.2.1 and 3.2.2 of this appendix, the freezer compartment temperature shall be as specified in section 5.1.4 of this appendix, the fresh food compartment temperature shall be as specified in section 5.1.3 of this appendix, and the cooler compartment temperature shall be as specified in section 5.1.5 of this appendix.

3.2.1 Temperature Control Settings and Tests to Use for Energy Use Calculations.

3.2.1.1 Setting Temperature Controls. For mechanical control systems, (a) knob detents shall be mechanically defeated if necessary to attain a median setting, and (b) the warmest and coldest settings shall correspond to the positions in which the indicator is aligned with control symbols indicating the warmest and coldest settings. For electronic control systems, the test shall be performed with all compartment temperature controls set at the average of the coldest and warmest settings; if there is no setting equal to this average, the setting closest to the average shall be used. If there are two such settings equally close to the average, the higher of these temperature control settings shall be used.

3.2.1.2 Test Sequence. A first test shall be performed with all compartment temperature controls set at their median position midway between their warmest and coldest settings. A second test shall be performed with all controls set at their warmest setting or all controls set at their coldest setting (not electrically or mechanically bypassed). For units with a single standardized temperature (*e.g.*, all-refrigerator or cooler), this setting shall be the appropriate setting that attempts to achieve compartment temperatures measured during the two tests that bound (*i.e.*, one is above and one is below) the standardized temperature. For other units, the second test shall be conducted with all controls at their coldest setting, unless all compartment temperatures measured during the first test are lower than the standardized temperatures, in which case the second test shall be conducted with all controls at their warmest setting. If any compartment is warmer than its standardized temperature for a test with all controls at their coldest position, the product receives no energy use rating and the manufacturer must submit a petition for a waiver (see section 7 of this appendix).

3.2.1.3 Temperature Setting Table. See Table 1 of this section for a general description of which settings to use and which test results to use in the energy consumption calculation for products with one, two, or three standardized temperatures.

TABLE 1—TEMPERATURE SETTINGS: GENERAL CHART FOR ALL PRODUCTS

First test		Second test		Energy calculation based on:
Setting	Results	Setting	Results	
Mid for all compartments	All compartments low	Warm for all compartments.	All compartments low	Second Test Only.
			One or more compartments high.	First and Second Test.
	One or more compartments high.	Cold for all compartments.	All compartments low	First and Second Test.
			One or more compartments high.	No Energy Use Rating.

3.2.2 Alternatively, a first test may be performed with all temperature controls set at their warmest setting. If all compartment temperatures are below the appropriate standardized temperatures, then the result of this test alone will be used to determine energy consumption. If this condition is not met, then the unit shall be tested in accordance with section 3.2.1 of this appendix.

3.2.3 Temperature Settings for Separate Auxiliary Convertible Compartments. For separate auxiliary convertible compartments tested as freezer compartments, the median setting shall be within 2 °F (1.1 °C) of the standardized freezer compartment temperature, and the warmest setting shall be at least 5 °F (2.8 °C) warmer than the standardized temperature. For separate auxiliary convertible compartments tested as fresh food compartments, the median setting shall be within 2 °F (1.1 °C) of 39 °F (3.9 °C), the coldest setting shall be below 34 °F (1.1 °C), and the warmest setting shall be above 43 °F (6.1 °C). For separate auxiliary convertible compartments tested as cooler compartments, the median setting shall be within 2 °F (1.1 °C) of 55 °F (12.8 °C), and the coldest setting shall be below 50 °F (10.0 °C). For compartments where control settings are not expressed as particular temperatures, the measured temperature of the convertible compartment rather than the settings shall meet the specified criteria.

3.3 Optional Test for Models with Two Compartments and User-Operable Controls. As an alternative to section 3.2 of this appendix, perform three tests such that the set of tests meets the "minimum requirements for interpolation" of AS/NZS 4474.1:2007 (incorporated by reference; see § 430.3) appendix M, section M3, paragraphs (a) through (c) and as illustrated in Figure M1. The target temperatures t_{xA} and t_{xB} defined in section M4(a)(i) of AS/NZ 4474.1:2007 shall be the standardized temperatures defined in section 3.2 of this appendix.

* * * * *

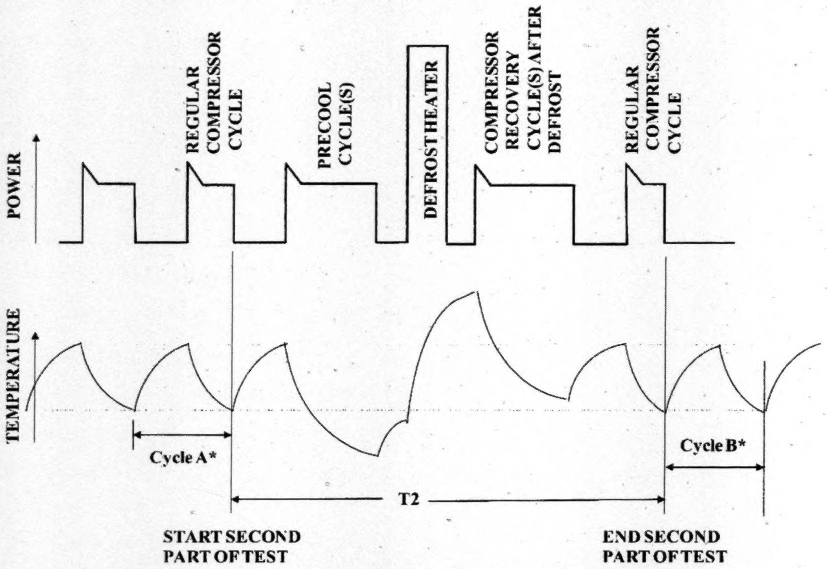
4. Test Period

* * * * *

4.2.1.1 Cycling Compressor System. For a system with a cycling compressor, the second part of the test starts at the termination of the last regular compressor "on" cycle. The average compartment temperatures measured from the termination of the previous compressor "on" cycle to the termination of the last regular compressor "on" cycle must both be within 0.5 °F (0.3 °C) of their average temperatures measured for the first part of the test. If any compressor cycles occur prior to the defrost heater being energized that cause the average temperature in any compartment to deviate from its average temperature for the first part of the test by more than 0.5 °F (0.3 °C), these compressor cycles are not considered regular compressor cycles and must be included in the second part of the test. As an example, a "precooling" cycle, which is an extended compressor cycle that lowers the temperature(s) of one or more compartments prior to energizing the defrost heater, must be included in the second part of the test. The test period for the second part of the test ends at the termination of the first regular compressor "on" cycle after compartment temperatures have fully recovered to their stable conditions. The average temperatures of the compartments measured from this termination of the first regular compressor "on" cycle until the termination of the next regular compressor "on" cycle must both be within 0.5 °F (0.3 °C) of their average temperatures measured for the first part of the test. See Figure 1 of this section. Note that Figure 1 illustrates the concepts of precooling and recovery but does not represent all possible defrost cycles.

Figure 1

Long-time Automatic Defrost Diagram for Cycling Compressors

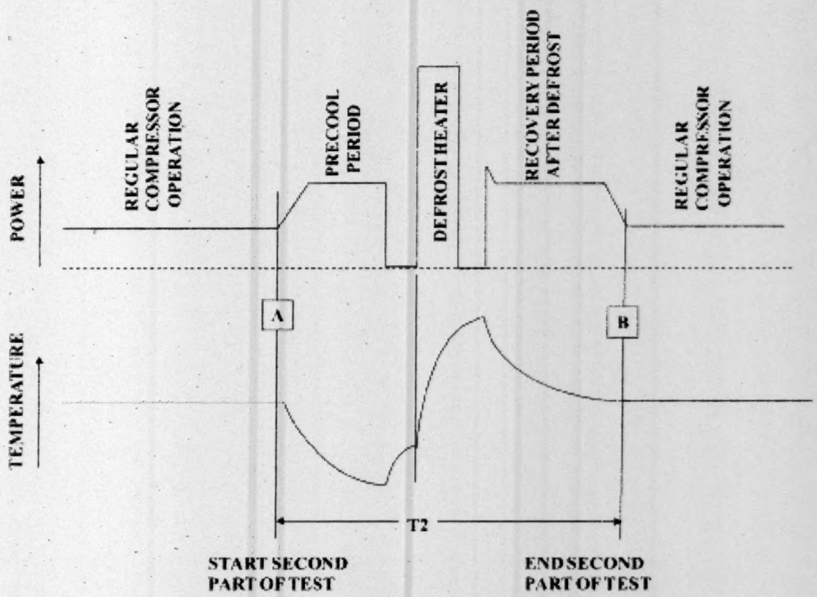

REGULAR COMPRESSOR CYCLE
PRECOOL CYCLE(S)
DEFROST HEATER
COMPRESSOR RECOVERY CYCLE(S) AFTER DEFROST
REGULAR COMPRESSOR CYCLE
POWER
TEMPERATURE
Cycle A*
Cycle B*
T2
START SECOND PART OF TEST
END SECOND PART OF TEST

*Average compartment temperature(s) during cycles A & B must be within 0.5 °F of the average temperature(s) for the first part of the test.

4.2.1.2 Non-cycling Compressor System. For a system with a non-cycling compressor, the second part of the test starts at a time before defrost during stable operation when compartment temperatures are within 0.5 °F (0.3 °C) of their average temperatures measured for the first part of the test. The second part stops at a time after defrost during stable operation when the compartment temperatures are within 0.5 °F (0.3 °C) of their average temperatures measured for the first part of the test. See Figure 2 of this section.

Figure 2

Long-time Automatic Defrost Diagram for Non-Cycling Compressors


POWER
TEMPERATURE
REGULAR COMPRESSOR OPERATION
PRECOOL PERIOD
DEFROST HEATER
RECOVERY PERIOD AFTER DEFROST
REGULAR COMPRESSOR OPERATION
A
B
T2
START SECOND PART OF TEST
END SECOND PART OF TEST

***Average compartment temperature(s) at times A & B must be within 0.5 °F of the average temperature(s) for the first part of the test.**

* * * * *

5. Test Measurements

5.1 Temperature Measurements. (a) Temperature measurements shall be made at the locations prescribed in HRF–1–2008 (incorporated by reference; see § 430.3) Figure 5.1 for cooler and fresh food compartments and Figure 5.2 for freezer compartments and shall be accurate to within ±0.5 °F (0.3 °C). No freezer temperature measurements need be taken in an all-refrigerator or cooler-all-refrigerator.

(b) If the interior arrangements of the unit under test do not conform with those shown in Figures 5.1 or 5.2 of HRF–1–2008, as appropriate, the unit must be tested by relocating the temperature sensors from the locations specified in the figures to avoid interference with hardware or components within the unit, in which case the specific locations used for the temperature sensors shall be noted in the test data records maintained by the manufacturer in accordance with 10 CFR 429.71, and the certification report shall indicate that non-standard sensor locations were used. If any temperature sensor is relocated by any amount from the location prescribed in Figure 5.1 or 5.2 of HRF–1– 2008 in order to maintain a minimum 1-inch air space from adjustable shelves or other components that could be relocated by the consumer, except in cases in which the Figures prescribe a temperature sensor location within 1 inch of a shelf or similar feature (*e.g.*, sensor T_3 in Figure 5.1), this constitutes a relocation of temperature sensors that must be recorded in the test data and reported in the certification report as described in this paragraph (b).

5.1.1 Measured Temperature. The measured temperature of a compartment is the average of all sensor temperature readings taken in that compartment at a particular point in time. Measurements shall be taken at regular intervals not to exceed 4 minutes. Measurements for multiple refrigeration system products shall be taken at regular intervals not to exceed one minute.

5.1.2 Compartment Temperature. The compartment temperature for each test period shall be an average of the measured temperatures taken in a compartment during the test period as defined in section 4 of this appendix. For long-time automatic defrost models, compartment temperatures shall be those measured in the first part of the test period specified in section 4.2.1 of this appendix. For models with variable defrost controls, compartment temperatures shall be those measured in the first part of the test period specified in section 4.2.2 of this appendix. For models with automatic defrost that is neither long-time nor variable defrost, the compartment temperature shall be an average of the measured temperatures taken in a compartment during a stable period of compressor operation that:

(a) Includes no defrost cycles or events associated with a defrost cycle, such as precooling or recovery;

(b) Is no less than three hours in duration; and

(c) Includes two or more whole compressor cycles. If the compressor does not cycle, the stable period used for the temperature average shall be three hours in duration.

5.1.3 Fresh Food Compartment Temperature. The fresh food compartment temperature shall be calculated as:

$$TR = \frac{\sum_{i=1}^{R}(TR_i) \times (VR_i)}{\sum_{i=1}^{R}(VR_i)}$$

Where:

R is the total number of applicable fresh food compartments, including the primary fresh food compartment and any separate auxiliary fresh food compartments (including separate auxiliary convertible compartments tested as fresh food compartments in accordance with section 2.7 of this appendix);

TR_i is the compartment temperature of fresh food compartment "i" determined in accordance with section 5.1.2 of this appendix; and

VR_i is the volume of fresh food compartment "i."

5.1.4 Freezer Compartment Temperature. The freezer compartment temperature shall be calculated as:

$$TF = \frac{\sum_{i=1}^{F}(TF_i) \times (VF_i)}{\sum_{i=1}^{F}(VF_i)}$$

Where:

F is the total number of applicable freezer compartments, which include the primary freezer compartment and any number of separate auxiliary freezer compartments (including separate auxiliary convertible compartments tested as freezer compartments in accordance with section 2.7 of this appendix);

TF_i is the compartment temperature of freezer compartment "i" determined in accordance with section 5.1.2 of this appendix; and

VF_i is the volume of freezer compartment "i".

5.1.5 Cooler Compartment Temperature. The cooler compartment temperature shall be calculated as:

$$TC = \frac{\sum_{i=1}^{C}(TC_i) \times (VC_i)}{\sum_{i=1}^{C}(VC_i)}$$

Where:

C is the total number of applicable cooler compartments (including separate auxiliary convertible compartments tested as cooler compartments in accordance with section 2.7 of this appendix);

TC_i is the compartment temperature of cooler compartment "i" determined in accordance with section 5.1.2 of this appendix; and

VC_i is the volume of cooler compartment "i."

5.2 Energy Measurements.

5.2.1 Per-Day Energy Consumption. The energy consumption in kilowatt-hours per day, ET, for each test period shall be the energy expended during the test period as specified in section 4 of this appendix adjusted to a 24-hour period. The adjustment shall be determined as follows.

5.2.1.1 Non-Automatic Defrost and Automatic Defrost. The energy consumption in kilowatt-hours per day shall be calculated equivalent to:

$ET = (EP \times 1440 \times K)/T$

Where:

ET = test cycle energy expended in kilowatt-hours per day;

EP = energy expended in kilowatt-hours during the test period;

T = length of time of the test period in minutes; and

1440 = conversion factor to adjust to a 24-hour period in minutes per day.

K = dimensionless correction factor of 1.0 for refrigerators and refrigerator-freezers; and 0.55 for coolers and combination cooler refrigeration products to adjust for average household usage.

5.2.1.2 Long-time Automatic Defrost. If the two-part test method is used, the energy consumption in kilowatt-hours per day shall be calculated equivalent to:

$ET = (1440 \times K \times EP1/T1) + (EP2 - (EP1 \times T2/T1)) \times K \times (12/CT)$

Where:

ET, 1440, and K are defined in section 5.2.1.1 of this appendix;

EP1 = energy expended in kilowatt-hours during the first part of the test;

EP2 = energy expended in kilowatt-hours during the second part of the test;

T1 and T2 = length of time in minutes of the first and second test parts respectively;

CT = defrost timer run time or compressor run time between defrosts in hours required to cause it to go through a complete cycle, rounded to the nearest tenth of an hour; and

12 = factor to adjust for a 50-percent run time of the compressor in hours per day.

5.2.1.3 Variable Defrost Control. The energy consumption in kilowatt-hours per day shall be calculated equivalent to:

$ET = (1440 \times K \times EP1/T1) + (EP2 - (EP1 \times T2/T1)) \times K \times (12/CT)$,

Where:

1440 and K are defined in section 5.2.1.1 of this appendix and EP1, EP2, T1, T2, and 12 are defined in section 5.2.1.2 of this appendix;

$CT = (CT_L \times CT_M)/(F \times (CT_M - CT_L) + CT_L)$;

CT_L = the shortest compressor run time between defrosts used in the variable defrost control algorithm (greater than or equal to 6 but less than or equal to 12 hours), or the shortest compressor run time between defrosts observed for the test (if it is shorter than the shortest run time used in the control algorithm and is greater than 6 hours), or 6 hours (if the shortest observed run time is less than 6 hours), in hours rounded to the nearest tenth of an hour;

CT_M = maximum compressor run time between defrosts in hours rounded to the nearest tenth of an hour (greater than CT_L but not more than 96 hours);

F = ratio of per day energy consumption in excess of the least energy and the maximum difference in per-day energy consumption and is equal to 0.20.

For variable defrost models with no values for CT_L and CT_M in the algorithm, the default values of 6 and 96 shall be used, respectively.

5.2.1.4 Multiple Compressor Products with Automatic Defrost. For multiple compressor products, the two-part test method in section 4.2.3.4 of this appendix must be used. The energy consumption in kilowatt-hours per day shall be calculated equivalent to:

$$ET = (1440 \times K \times EP1/T1) + \sum_{i=1}^{D}\left[\left(EP2_i - (EP1 \times T2_i/T1)\right) \times K \times (12/CT_i)\right]$$

Where:

1440 and K are defined in section 5.2.1.1 of this appendix and EP1, T1, and 12 are defined in section 5.2.1.2 of this appendix;

i = a variable that can equal 1, 2, or more that identifies each individual compressor system that has automatic defrost;

D = the total number of compressor systems with automatic defrost.

$EP2_i$ = energy expended in kilowatt-hours during the second part of the test for compressor system i;

$T2_i$ = length of time in minutes of the second part of the test for compressor system i;

CT_i = the compressor run time between defrosts for compressor system i in hours rounded to the nearest tenth of an hour, for long-time automatic defrost control equal to a fixed time in hours, and for variable defrost control equal to:

$(CT_{Li} \times CT_{Mi})/(F \times (CT_{Mi} - CT_{Li}) + CT_{Li})$;

Where:

CT_{Li} = for compressor system i, the shortest compressor run time between defrosts used in the variable defrost control algorithm (greater than or equal to 6 but less than or equal to 12 hours), or the shortest compressor run time between defrosts observed for the test (if it is shorter than the shortest run time used in the control algorithm and is greater than 6 hours), or 6 hours (if the shortest observed run time is less than 6 hours), in hours rounded to the nearest tenth of an hour;

CT_{Mi} = for compressor system i, the maximum compressor run time between defrosts in hours rounded to the nearest tenth of an hour (greater than CT_{Li} but not more than 96 hours);

F = default defrost energy consumption factor, equal to 0.20.

For variable defrost models with no values for CT_{Li} and CT_{Mi} in the algorithm, the default values of 6 and 96 shall be used, respectively.

5.2.1.5 Long-time or Variable Defrost Control for Systems with Multiple Defrost Cycle Types. The energy consumption in kilowatt-hours per day shall be calculated equivalent to:

$$ET = \left(1440 \times K \times \frac{EP1}{T1}\right) + \sum_{i=1}^{D}\left[\left(EP2_i - \left(EP1 \times \frac{T2_i}{T1}\right)\right) \times K \times \left(\frac{12}{CT_i}\right)\right]$$

Where:

1440 and K are defined in section 5.2.1.1 of this appendix and EP1, T1, and 12 are defined in section 5.2.1.2 of this appendix;

i is a variable that can equal 1, 2, or more that identifies the distinct defrost cycle types applicable for the product;

$EP2_i$ = energy expended in kilowatt-hours during the second part of the test for defrost cycle type i;

$T2_i$ = length of time in minutes of the second part of the test for defrost cycle type i;

CT_i is the compressor run time between instances of defrost cycle type i, for long-time automatic defrost control equal to a fixed time in hours rounded to the nearest tenth of an hour, and for variable defrost control equal to:

$(CT_{Li} \times CT_{Mi})/(F \times (CT_{Mi} - CT_{Li}) + CT_{Li})$;

CT_{Li} = least or shortest compressor run time between instances of defrost cycle type i in hours rounded to the nearest tenth of an hour (CT_L for the defrost cycle type with the longest compressor run time between defrosts must be greater than or equal to 6 but less than or equal to 12 hours);

CT_{Mi} = maximum compressor run time between instances of defrost cycle type i in hours rounded to the nearest tenth of an hour (greater than CT_{Li} but not more than 96 hours);

For cases in which there are more than one fixed CT value (for long-time defrost models) or more than one CT_M and/or CT_L value (for variable defrost models) for a given defrost cycle type, an average fixed CT value or average CT_M and CT_L values shall be selected for this cycle type so that 12 divided by this value or values is the frequency of occurrence of the defrost cycle type in a 24 hour period, assuming 50% compressor run time.

F = default defrost energy consumption factor, equal to 0.20.

For variable defrost models with no values for CT_{Li} and CT_{Mi} in the algorithm, the default values of 6 and 96 shall be used, respectively.

D is the total number of distinct defrost cycle types.

5.3 Volume Measurements. (a) The unit's total refrigerated volume, VT, shall be measured in accordance with HRF–1–2008, (incorporated by reference; see § 430.3), section 3.30 and sections 4.2 through 4.3. The measured volume shall include all spaces within the insulated volume of each compartment except for the volumes that must be deducted in accordance with section 4.2.2 of HRF–1–2008, as provided in paragraph (b) of this section, and be calculated equivalent to:

$VT = VF + VFF + VC$

Where:

VT = total refrigerated volume in cubic feet,

VF = freezer compartment volume in cubic feet,

VFF = fresh food compartment volume in cubic feet, and

VC = cooler compartment volume in cubic feet.

(b) The following component volumes shall not be included in the compartment volume measurements: Icemaker compartment insulation (*e.g.*, insulation isolating the icemaker compartment from the fresh food compartment of a product with a bottom-mounted freezer with through-the-door ice service), fountain recess, dispenser insulation, and ice chute (if there is a plug, cover, or cap over the chute per Figure 4–2 of HRF–1–2008). The following component volumes shall be included in the compartment volume measurements: Icemaker auger motor (if housed inside the insulated space of the cabinet), icemaker kit, ice storage bin, and ice chute (up to the dispenser flap, if there is no plug, cover, or cap over the ice chute per Figure 4–3 of HRF–1–2008).

(c) Total refrigerated volume is determined by physical measurement of the test unit. Measurements and calculations used to determine the total refrigerated volume shall be retained as part of the test records underlying the certification of the basic model in accordance with 10 CFR 429.71.

(d) Compartment classification shall be based on subdivision of the refrigerated volume into zones separated from each other by subdividing barriers: No evaluated compartment shall be a zone of a larger compartment unless the zone is separated from the remainder of the larger compartment by subdividing barriers; if there are no such subdividing barriers within the larger compartment, the larger compartment must be evaluated as a single compartment rather than as multiple compartments. If the cabinet contains a movable subdividing barrier, it must be placed as described in section 2.7 of this appendix.

(e) Freezer, fresh food, and cooler compartment volumes shall be calculated and recorded to the nearest 0.01 cubic foot. Total refrigerated volume shall be calculated and recorded to the nearest 0.1 cubic foot.

6. Calculation of Derived Results From Test Measurements

6.1 Adjusted Total Volume. The adjusted total volume of each tested unit must be determined based upon the volume measured in section 5.3 of this appendix using the following calculations. Where volume measurements for the freezer, fresh food, and cooler compartment are recorded in liters, the measured volume must be converted to cubic feet and rounded to the nearest 0.01 cubic foot prior to calculating the adjusted volume. Adjusted total volume shall be calculated and recorded to the nearest 0.1 cubic foot.

6.1.1 Refrigerators, Coolers, and Cooler-Refrigerators. The adjusted total volume, AV, for refrigerators or cooler-refrigerators under test, shall be defined as:

$AV = (VF \times CR) + VFF + VC$

Where:

AV = adjusted total volume in cubic feet;

VF, VFF, and VC are defined in section 5.3 of this appendix;

CR = dimensionless adjustment factor for freezer compartments of 1.00 for all-refrigerators and cooler-all-refrigerators, or 1.47 for other types of refrigerators and cooler-refrigerators; and

6.1.2 Refrigerator-Freezers, Cooler-Refrigerator-Freezers, and Cooler-Freezers. The adjusted total volume, AV, for refrigerator-freezers, cooler-refrigerator-freezers, and cooler-freezers under test shall be calculated as follows:

$AV = (VF \times CRF) + VFF + VC$

Where:

VF, VFF, and VC are defined in section 5.3 and AV is defined in section 6.1.1 of this appendix;

CRF = dimensionless adjustment factor for freezer compartments of 1.76; and

6.2 Average Per-Cycle Energy Consumption. The average per-cycle energy consumption for a cycle type, E, is expressed in kilowatt-hours per cycle to the nearest one hundredth (0.01) kilowatt-hour and shall be calculated according to the sections below.

6.2.1 All-Refrigerator Models. The average per-cycle energy consumption shall depend upon the temperature attainable in the fresh food compartment as shown in section 6.2.1.1 of this appendix.

6.2.1.1 If the fresh food compartment temperature is always below 39.0 °F (3.9 °C), the average per-cycle energy consumption shall be equivalent to:

$E = ET1$

Where:

ET is defined in section 5.2.1 of this appendix; and

The number 1 indicates the test during which the highest fresh food compartment temperature is measured.

6.2.1.2 If the conditions of section 6.2.1.1 of this appendix do not apply, the average per-cycle energy consumption shall be equivalent to:

$E = ET1 + ((ET2 - ET1) \times (39.0 - TR1)/(TR2 - TR1))$

Where:

ET is defined in section 5.2.1 of this appendix;

TR = fresh food compartment temperature determined according to section 5.1.3 of this appendix in degrees F;

The numbers 1 and 2 indicate measurements taken during the two tests to be used to calculate energy consumption, as specified in section 3 of this appendix; and

39.0 = standardized fresh food compartment temperature in degrees F.

6.2.2 Coolers. The average per-cycle energy consumption shall depend upon the temperature attainable in the cooler compartment as shown in section 6.2.2.1 of this appendix.

6.2.2.1 If the cooler compartment temperature is always below 55.0 °F (12.8 °C), the average per-cycle energy consumption shall be equivalent to:

$E = ET1$

Where:

ET is defined in section 5.2.1 of this appendix; and

The number 1 indicates the test during which the highest cooler compartment temperature is measured.

6.2.2.2 If the conditions of section 6.2.2.1 of this appendix do not apply, the average per-cycle energy consumption shall be equivalent to:

$$E = ET1 + ((ET2 - ET1) \times (55.0 - TC1)/(TC2 - TC1))$$

Where:

ET is defined in section 5.2.1 of this appendix;

TC = cooler compartment temperature determined according to section 5.1.5 of this appendix in degrees F;

The numbers 1 and 2 are defined in section 6.2.1.2 of this appendix; and

55.0 = standardized cooler compartment temperature in degrees F.

6.2.3 Refrigerators and Refrigerator-Freezers. The average per-cycle energy consumption shall be defined in one of the following ways as applicable.

6.2.3.1 If the fresh food compartment temperature is always below 39 °F (3.9 °C) and the freezer compartment temperature is always below 15 °F (−9.4 °C) in both tests of a refrigerator or always below 0 °F (−17.8 °C) in both tests of a refrigerator-freezer, the average per-cycle energy consumption shall be:

$$E = ET1 + IET$$

Where:

ET is defined in section 5.2.1 of this appendix;

IET, expressed in kilowatt-hours per cycle, equals 0.23 for a product with an automatic icemaker and otherwise equals 0 (zero); and

The number 1 indicates the test during which the highest freezer compartment temperature was measured.

6.2.3.2 If the conditions of section 6.2.3.1 of this appendix do not apply, the average per-cycle energy consumption shall be defined by the higher of the two values calculated by the following two formulas:

$$E = ET1 + ((ET2 - ET1) \times (39.0 - TR1)/(TR2 - TR1)) + IET$$

and

$$E = ET1 + ((ET2 - ET1) \times (k - TF1)/(TF2 - TF1)) + IET$$

Where:

ET is defined in section 5.2.1 of this appendix;

IET is defined in section 6.2.3.1 of this appendix;

TR and the numbers 1 and 2 are defined in section 6.2.1.2 of this appendix;

TF = freezer compartment temperature determined according to section 5.1.4 of this appendix in degrees F;

39.0 is a specified fresh food compartment temperature in degrees F; and

k is a constant 15.0 for refrigerators or 0.0 for refrigerator-freezers, each being a standardized freezer compartment temperature in degrees F.

6.2.4 Combination Cooler Refrigeration Products. The average per-cycle energy consumption shall be defined in one of the following ways as applicable.

6.2.4.1 If the compartment temperatures are always below their compartments' standardized temperatures as defined in section 3.2 of this appendix (the fresh food compartment temperature is at or below 39 °F (3.9 °C); the cooler compartment temperature is at or below 55 °F (12.8 °C); and the freezer compartment temperature is at or below 15 °F (−9.4 °C) for a cooler-refrigerator, or the freezer compartment temperature is at or below 0 °F (−17.8 °C) for a cooler-refrigerator-freezer or cooler-freezer), the average per-cycle energy consumption shall be:

$$E = ET1 + IET$$

Where:

ET is defined in section 5.2.1 of this appendix;

IET is defined in section 6.2.3.1 of this appendix;

The number 1 indicates the test during which the highest freezer compartment temperature is measured. If the product has no freezer compartment, the number 1 indicates the test during which the highest fresh food compartment temperature is measured.

6.2.4.2 If the conditions of section 6.2.4.1 of this appendix do not apply, the average per-cycle energy consumption shall be defined by the highest of the two or three values calculated by the following three formulas:

$$E = (ET1 + ((ET2 - ET1) \times (39.0 - TR1)/(TR2 - TR1)) + IET$$ if the product has a fresh food compartment;

$$E = (ET1 + ((ET2 - ET1) \times (k - TF1)/(TF2 - TF1)) + IET$$ if the product has a freezer compartment; and

$$E = (ET1 + ((ET2 - ET1) \times (55.0 - TC1)/(TC2 - TC1)) + IET$$

Where:

ET is defined in section 5.2.1 of this appendix;

IET is defined in section 6.2.3.1 of this appendix;

TR and the numbers 1 and 2 are defined in section 6.2.1.2 of this appendix;

TF is defined in section 6.2.3.2 of this appendix;

TC is defined in section 6.2.2.2 of this appendix;

39.0 is a specified fresh food compartment temperature in degrees F;

k is a constant 15.0 for cooler-refrigerators or 0.0 for cooler-refrigerator-freezers and cooler-freezers, each being a standardized freezer compartment temperature in degrees F; and

55.0 is a specified cooler compartment temperature in degrees F.

6.2.5 Variable Anti-Sweat Heater Models. The standard cycle energy consumption of a model with a variable anti-sweat heater control (E_{std}), expressed in kilowatt-hours per day, shall be calculated equivalent to:

$E_{std} = E$ + (Correction Factor) where E is determined by sections 6.2.1, 6.2.2, 6.2.3, or 6.2.4 of this appendix, whichever is appropriate, with the anti-sweat heater switch in the "off" position or, for a product without an anti-sweat heater switch, the anti-sweat heater in its lowest energy use state.

Correction Factor = (Anti-sweat Heater Power × System-loss Factor) × (24 hrs/1 day) × (1 kW/1000 W)

Where:

Anti-sweat Heater Power = 0.034 * (Heater Watts at 5%RH)
+ 0.211 * (Heater Watts at 15%RH)
+ 0.204 * (Heater Watts at 25%RH)
+ 0.166 * (Heater Watts at 35%RH)
+ 0.126 * (Heater Watts at 45%RH)
+ 0.119 * (Heater Watts at 55%RH)
+ 0.069 * (Heater Watts at 65%RH)
+ 0.047 * (Heater Watts at 75%RH)
+ 0.008 * (Heater Watts at 85%RH)
+ 0.015 * (Heater Watts at 95%RH)

Heater Watts at a specific relative humidity = the nominal watts used by all heaters at that specific relative humidity, 72 °F (22.2 °C) ambient, and DOE reference temperatures of fresh food (FF) average temperature of 39 °F (3.9 °C) and freezer (FZ) average temperature of 0 °F (−17.8 °C).

System-loss Factor = 1.3.

7. Test Procedure Waivers

To the extent that the procedures contained in this appendix do not provide a means for determining the energy consumption of a basic model, a manufacturer must obtain a waiver under § 430.27 to establish an acceptable test procedure for each such basic model. Such instances could, for example, include situations where the test set-up for a particular basic model is not clearly defined by the provisions of section 2 of this appendix. For details regarding the criteria and procedures for obtaining a waiver, please refer to § 430.27.

Appendix A1—[Removed]

■ 12. Appendix A1 to subpart B is removed.

■ 13. Appendix B to subpart B is amended by revising the introductory text and sections 1, 2.5, 5.1.b, 5.1.3, 5.3, 6.1, 6.2.1, 6.2.2, and 7 to read as follows:

Appendix B to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Freezers

Note: For freezers, the rounding requirements specified in sections 5.3.e and 6.1 of this appendix are not required for use until the compliance date of any amended energy conservation standards for these products.

1. Definitions

Section 3, Definitions, of HRF–1–2008 (incorporated by reference; see § 430.3) applies to this test procedure.

Adjusted total volume means the product of the freezer volume as defined in HRF–1–2008 (incorporated by reference; see § 430.3) in cubic feet multiplied by an adjustment factor.

Anti-sweat heater means a device incorporated into the design of a freezer to prevent the accumulation of moisture on exterior or interior surfaces of the cabinet.

Anti-sweat heater switch means a user-controllable switch or user interface which modifies the activation or control of anti-sweat heaters.

Automatic defrost means a system in which the defrost cycle is automatically initiated and terminated, with resumption of normal refrigeration at the conclusion of defrost operation. The system automatically prevents the permanent formation of frost on all refrigerated surfaces. Nominal refrigerated food temperatures are maintained during the operation of the automatic defrost system.

Automatic icemaker means a device that can be supplied with water without user intervention, either from a pressurized water supply system or by transfer from a water reservoir that automatically produces, harvests, and stores ice in a storage bin, with means to automatically interrupt the harvesting operation when the ice storage bin is filled to a pre-determined level.

Complete temperature cycle means a time period defined based upon the cycling of compartment temperature that starts when the compartment temperature is at a maximum and ends when the compartment temperature returns to an equivalent maximum (within 0.5 °F of the starting temperature), having in the interim fallen to a minimum and subsequently risen again to reach the second maximum. Alternatively, a complete temperature cycle can be defined to start when the compartment temperature is at a minimum and end when the compartment temperature returns to an equivalent minimum (within 0.5 °F of the starting temperature), having in the interim risen to a maximum and subsequently fallen again to reach the second minimum.

Cycle means the period of 24 hours for which the energy use of a freezer is calculated as though the consumer-activated compartment temperature controls were set to maintain the standardized temperature (see section 3.2 of this appendix).

Cycle type means the set of test conditions having the calculated effect of operating a freezer for a period of 24 hours with the consumer-activated controls other than the compartment temperature control set to establish various operating characteristics.

HRF–1–2008 means AHAM Standard HRF–1–2008, Association of Home Appliance Manufacturers, Energy and Internal Volume of Refrigerating Appliances (2008), including Errata to Energy and Internal Volume of Refrigerating Appliances, Correction Sheet issued November 17, 2009. Only sections of HRF–1–2008 (incorporated by reference; see § 430.3) specifically referenced in this test procedure are part of this test procedure. In cases where there is a conflict, the language of the test procedure in this appendix takes precedence over HRF–1–2008.

Ice storage bin means a container in which ice can be stored.

Long-time automatic defrost means an automatic defrost system where successive defrost cycles are separated by 14 hours or more of compressor operating time.

Precooling means operating a refrigeration system before initiation of a defrost cycle to reduce one or more compartment temperatures significantly (more than 0.5 °F) below its minimum during stable operation between defrosts.

Quick freeze means an optional feature on freezers that is initiated manually. It bypasses the thermostat control and operates continually until the feature is terminated either manually or automatically.

Recovery means operating a refrigeration system after the conclusion of a defrost cycle to reduce the temperature of one or more compartments to the temperature range that the compartment(s) exhibited during stable operation between defrosts.

Separate auxiliary compartment means a freezer compartment other than the primary freezer compartment of a freezer having more than one compartment. Access to a separate auxiliary compartment is through a separate exterior door or doors rather than through the door or doors of another compartment. Separate auxiliary freezer compartments may not be larger than the primary freezer compartment.

Special compartment means any compartment without doors directly accessible from the exterior, and with separate temperature control that is not convertible from fresh food temperature range to freezer temperature range.

Stabilization period means the total period of time during which steady-state conditions are being attained or evaluated.

Stable operation means operation after steady-state conditions have been achieved but excluding any events associated with defrost cycles. During stable operation the average rate of change of compartment temperature must not exceed 0.042 °F (0.023 °C) per hour. Such a calculation performed for compartment temperatures at any two times, or for any two periods of time comprising complete cycles, during stable operation must meet this requirement.

(a) If compartment temperatures do not cycle, the relevant calculation shall be the difference between the temperatures at two points in time divided by the difference, in hours, between those points in time.

(b) If compartment temperatures cycle as a result of compressor cycling or other cycling operation of any system component (*e.g.*, a damper, fan, or heater), the relevant calculation shall be the difference between compartment temperature averages evaluated for whole compressor cycles or complete temperature cycles divided by the difference, in hours, between either the starts, ends, or mid-times of the two cycles.

Standard cycle means the cycle type in which the anti-sweat heater switch, when provided, is set in the highest energy-consuming position.

Through-the-door ice/water dispenser means a device incorporated within the cabinet, but outside the boundary of the refrigerated space, that delivers to the user on demand ice and may also deliver water from within the refrigerated space without opening an exterior door. This definition includes dispensers that are capable of dispensing ice and water or ice only.

Variable defrost control means an automatic defrost system in which successive defrost cycles are determined by an operating condition variable (or variables) other than solely compressor operating time. This includes any electrical or mechanical device performing this function. A control scheme that changes the defrost interval from a fixed length to an extended length (without any intermediate steps) is not considered a variable defrost control. A variable defrost control feature should predict the accumulation of frost on the evaporator and react accordingly. Therefore, the times between defrost must vary with different usage patterns and include a continuum of lengths of time between defrosts as inputs vary.

2. Test Conditions

* * * * *

2.5 Special compartments shall be tested with controls set to provide the coldest temperature. However, for special compartments in which temperature control is achieved using the addition of heat (including resistive electric heating, refrigeration system waste heat, or heat from any other source, but excluding the transfer of air from another part of the interior of the product) for any part of the controllable temperature range of that compartment, the product energy use shall be determined by averaging two sets of tests. The first set of tests shall be conducted with such special compartments at their coldest settings, and the second set of tests shall be conducted with such special compartments at their warmest settings. The requirements for the warmest or coldest temperature settings of this section do not apply to features or functions associated with temperature control (such as quick freeze) that are initiated manually and terminated automatically within 168 hours.

Movable subdividing barriers that separate compartments of different types (*e.g.*, fresh food on one side and cooler on the other side) shall be placed in the median position. If such a subdividing barrier has an even number of positions, the near-median position representing the smallest volume of the warmer compartment(s) shall be used.

* * * * *

5. Test Measurements

5.1 Temperature Measurements. * * *

(b) If the interior arrangements of the unit under test do not conform with those shown in Figure 5.2 of HRF–1–2008, the unit must be tested by relocating the temperature sensors from the locations specified in the figures to avoid interference with hardware or components within the unit, in which case the specific locations used for the temperature sensors shall be noted in the test data records maintained by the manufacturer in accordance with 10 CFR 429.71, and the certification report shall indicate that non-standard sensor locations were used. If any temperature sensor is relocated by any amount from the location prescribed in Figure 5.2 of HRF–1–2008 in order to maintain a minimum 1-inch air space from adjustable shelves or other components that could be relocated by the consumer, except in cases in which the Figure prescribe a temperature sensor location within 1 inch of a shelf or similar feature, this constitutes a relocation of temperature sensors that must be recorded in the test data and reported in the certification report as described above.

* * * * *

5.1.3 Freezer Compartment Temperature. The freezer compartment temperature shall be calculated as:

$$TF = \frac{\sum_{i=1}^{F}(TF_i) \times (VF_i)}{\sum_{i=1}^{F}(VF_i)}$$

Where:

F is the total number of applicable freezer compartments, which include the primary freezer compartment and any

number of separate auxiliary freezer compartments;
TF_i is the compartment temperature of freezer compartment "i" determined in accordance with section 5.1.2 of this appendix; and
VF_i is the volume of freezer compartment "i".

* * * * *

5.3 Volume Measurements. (a) The unit's total refrigerated volume, VT, shall be measured in accordance with HRF–1–2008 (incorporated by reference; see § 430.3), section 3.30 and sections 4.2 through 4.3. The measured volume shall include all spaces within the insulated volume of each compartment except for the volumes that must be deducted in accordance with section 4.2.2 of HRF–1–2008, as provided in paragraph (b) of this section.

(b) The following component volumes shall not be included in the compartment volume measurements: Icemaker compartment insulation, fountain recess, dispenser insulation, and ice chute (if there is a plug, cover, or cap over the chute per Figure 4–2 of HRF–1–2008). The following component volumes shall be included in the compartment volume measurements: Icemaker auger motor (if housed inside the insulated space of the cabinet), icemaker kit, ice storage bin, and ice chute (up to the dispenser flap, if there is no plug, cover, or cap over the ice chute per Figure 4–3 of HRF–1–2008).

(c) Total refrigerated volume is determined by physical measurement of the test unit. Measurements and calculations used to determine the total refrigerated volume shall be retained as part of the test records underlying the certification of the basic model in accordance with 10 CFR 429.71.

(d) Compartment classification shall be based on subdivision of the refrigerated volume into zones separated from each other by subdividing barriers: No evaluated compartment shall be a zone of a larger compartment unless the zone is separated from the remainder of the larger compartment by subdividing barriers; if there are no such subdividing barriers within the larger compartment, the larger compartment must be evaluated as a single compartment rather than as multiple compartments. If the cabinet contains a movable subdividing barrier, it must be placed as described in section 2.5 of this appendix.

(e) Freezer compartment volumes shall be calculated and recorded to the nearest 0.01 cubic feet. Total refrigerated volume shall be calculated and recorded to the nearest 0.1 cubic feet.

6. Calculation of Derived Results From Test Measurements

6.1 Adjusted Total Volume. The adjusted total volume of each tested unit must be determined based upon the volume measured in section 5.3 of this appendix using the following calculations. Where volume measurements for the freezer are recorded in liters, the measured volume must be converted to cubic feet and rounded to the nearest 0.01 cubic foot prior to calculating the adjusted volume. Adjusted total volume shall be calculated and recorded to the nearest 0.1 cubic foot. The adjusted total volume, AV, for freezers under test shall be defined as:

$$AV = VT \times CF$$

Where:

VA = adjusted total volume in cubic feet;
VT = total refrigerated volume in cubic feet; and
CF = dimensionless correction factor of 1.76.

* * * * *

6.2.1 If the compartment temperature is always below 0.0 °F (−17.8 °C), the average per-cycle energy consumption shall be equivalent to:

$$E = ET1 + IET$$

Where:

E = total per-cycle energy consumption in kilowatt-hours per day;
ET is defined in section 5.2.1 of this appendix;
The number 1 indicates the test during which the highest compartment temperature is measured; and
IET, expressed in kilowatt-hours per cycle, equals 0.23 for a product with an automatic icemaker and otherwise equals 0 (zero).

6.2.2 If one of the compartment temperatures measured for a test is greater than 0.0 °F (17.8 °C), the average per-cycle energy consumption shall be equivalent to:

$$E = ET1 + ((ET2 - ET1) \times (0.0 - TF1)/(TF2 - TF1)) + IET$$

Where:

E and IET are defined in section 6.2.1 of this appendix and ET is defined in section 5.2.1 of this appendix;
TF = freezer compartment temperature determined according to section 5.1.3 of this appendix in degrees F;
The numbers 1 and 2 indicate measurements taken during the two tests to be used to calculate energy consumption, as specified in section 3 of this appendix; and
0.0 = standardized compartment temperature in degrees F.

* * * * *

7. Test Procedure Waivers

To the extent that the procedures contained in this appendix do not provide a means for determining the energy consumption of a basic model, a manufacturer must obtain a waiver under § 430.27 to establish an acceptable test procedure for each such basic model. Such instances could, for example, include situations where the test set-up for a particular basic model is not clearly defined by the provisions of section 2 of this appendix. For details regarding the criteria and procedures for obtaining a waiver, please refer to § 430.27.

Appendix B1—[Removed]

■ 14. Appendix B1 to subpart B is removed.

[FR Doc. 2016–14389 Filed 7–15–16; 8:45 am]

BILLING CODE 6450–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

FEDERAL REGISTER

Vol. 81 Monday,
No. 137 July 18, 2016

Part III

Department of Education

34 CFR Chapter II, Parts 270, 271, and 272
Equity Assistance Centers (Formerly Desegregation Assistance Centers (DAC)); Final Priority and Requirement—Equity Assistance Centers; Final Rules; Applications for New Awards; Equity Assistance Centers; Notice

DEPARTMENT OF EDUCATION

34 CFR Parts 270, 271, and 272

RIN 1810–AB26

[Docket ID ED–2016–OESE–0006]

Equity Assistance Centers (Formerly Desegregation Assistance Centers (DAC))

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations that govern the Equity Assistance Centers (EAC) program, authorized under Title IV of the Civil Rights Act of 1964 (Title IV), and removes the regulations that govern the State Educational Agency Desegregation (SEA Desegregation) program, authorized under Title IV. These regulations govern the application process for new EAC grant awards. These regulations update the definitions applicable to this program; remove the existing selection criteria; and provide the Secretary with flexibility to determine the number and composition of geographic regions for the EAC program.

DATES: These regulations are effective August 17, 2016.

FOR FURTHER INFORMATION CONTACT: Britt Jung, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E206, Washington, DC 20202–6135. Telephone: (202) 205–4513 or by email: *britt.jung@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On March 24, 2016, the Secretary published a notice of proposed rulemaking (NPRM) for the EAC program (81 FR 15665). In the preamble of the NPRM, we discussed on pages 15666 through 15667 the major changes proposed in that document to improve the EAC program. These included the following:

- Amending the section that governs the existing geographic regions to allow the Secretary flexibility in choosing the number and composition of geographic regions to be funded with each competition.
- Adding religion to the areas of desegregation assistance, adding a definition for "special educational problems occasioned by desegregation," and amending the definition of "sex desegregation" to clarify the protected individuals identified by this term.
- Removing the existing selection criteria, to instead rely on the general selection criteria listed under the Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.210.
- Removing the limitations and exceptions established in current 34 CFR 270.6 on providing desegregation assistance, to align these regulations with those of other technical assistance centers.
- Removing 34 CFR part 271, as the SEA Desegregation program has not been funded in twenty years, as well as merging part 272 into part 270, so that a single part covers the EAC program.

These final regulations contain changes from the NPRM, which are fully explained in the Analysis of Comments and Changes section of this document.

Public Comment: In response to our invitation in the NPRM, 108 parties submitted comments on the proposed regulations. We discuss substantive issues under the section number of the item to which they pertain. Several comments did not pertain to a specific section of the proposed regulations. We discuss these comments based on the general topic area. Generally, we do not address technical and other minor changes. In addition, we do not address comments that raise concerns not directly related to the proposed regulations.

Analysis of Comments and Changes: An analysis of the comments and of any changes in the regulations since publication of the NPRM follows.

General Comments

Comment: Numerous commenters wrote to express their support and appreciation of the previous work of the EACs.

Discussion: The Department appreciates the support for this program and for the past work of the EACs.

Changes: None.

Comment: Several commenters wrote to express their support for updating the program name and related definitions to refer to "Equity Assistance Centers" rather than Desegregation Assistance Centers. However, a few commenters objected to the Department amending the definition of a "Desegregation Assistance Center" to refer to it as an Equity Assistance Center. These commenters proposed alternate names, such as Integration and Equity Assistance Centers (IEACS), Desegregation and Equity Assistance Centers (DEACs) or Civil Rights Equity Assistance Centers (CREACs).

Discussion: The Department appreciates the support expressed by many commenters for these changes. The Department declines to adopt the commenters' alternate suggestions for names, as we maintain that the term "equity" better reflects the breadth of desegregation activities currently undertaken by the regional centers. Also, we note that the Department has for some time referred to the regional centers as "Equity Assistance Centers" in the notices inviting applications, in cooperative agreements, and on the Office of Elementary and Secondary Education's (OESE's) Web page for the grant program. Ultimately, the purpose of the regional centers is to ensure equitable access to educational opportunities for all students without regard to race, sex, national origin, or religion. Therefore, we believe it is appropriate to formally refer to the regional centers as "Equity Assistance Centers."

Changes: None.

Comment: Some commenters requested that we delay the implementation of these regulations until we engage in further consultation with the existing EACs, tribes, or other stakeholders.

Discussion: The Department solicited public comment on the open issues affecting these regulations through the NPRM. Existing EACs, along with other stakeholders, were notified of the proposed regulations multiple times throughout the comment period. The Department provided the existing EACs with the same opportunity to comment on the proposed regulations as all other interested parties. Further, we note that these proposed regulations do not trigger the need for tribal consultation; while American Indian and Alaska Native students may benefit as a result of the EAC program, the program is aimed at servicing all LEAs seeking assistance with desegregation problems, and not directly Indian tribes. Thus, we decline to postpone the implementation of these regulations for the purpose of further consultation.

Changes: None.

Comment: One commenter suggested that the EACs renew a programmatic focus on supporting school integration efforts, and provide assistance for policy efforts designed to bring students together. This commenter also suggested the Department increase EAC accountability in reporting outputs, outcomes, best practices, and what works, to expand resources and awareness to a wide array of communities.

Discussion: The Department supports the continued development of an EAC program that works to ensure that students are brought together through eliminating segregation in schools on the basis of race, national origin, sex and religion. The Department agrees that accountability plays an important role in this process, and directs this commenter to our Government Performance and Results Act (GPRA) measures, which measure the work of the EACs using a variety of criteria, and performance reporting requirements including annual performance reports, annual evaluations, and financial reports. These can be found in the notice inviting applications for new awards published elsewhere in this issue of the **Federal Register**. When running competitions for the EAC program, the Department hopes to attract applicants that will consider a range of methods for addressing the needs of each geographic region, which may include identifying different strategies to expand resources and awareness to a wide array of communities within the region. Finally, as to the sharing of best practices, the Department notes that under § 270.30(b), each EAC is expected to coordinate assistance in its geographic regions with appropriate SEAs, Comprehensive Centers, Regional Educational Laboratories, and other Federal technical assistance centers, which could include the soliciting and sharing of best practices.

Changes: None.

Removal of Previous 34 CFR Part 271

Comment: Some commenters requested that the Department retain the regulations for the SEA Desegregation Program under existing 34 CFR part 271.

Discussion: The Department appreciates, but disagrees with, these comments. Congress has not funded the SEA Desegregation program in more than 20 years, and as a result, the Department no longer administers this program. Given these circumstances, the Department believes that retaining the SEA Desegregation program regulations under part 271 is not in the public interest, and could only result in public confusion. Thus, the Department will move forward in removing 34 CFR part 271, and consolidating current part 272 into part 270.

Changes: None.

Removal of Previous § 272.30: What criteria does the Secretary use to make a grant?

Comment: Several commenters objected to the Department removing the selection criteria under previous § 272.30. Specifically, some of these commenters stated that the existing selection criteria are necessary because they are tailored to the special needs of the civil rights community. Another commenter requested that the selection criteria specify that the EACs can provide assistance in all desegregation assistance areas, and that EACs can help to combat religious discrimination without decreasing other civil rights protections. Another commenter suggested that the Department consider an understanding of the elements required to effect real and lasting change versus information dissemination.

Discussion: The Department believes that using the general selection criteria listed in 34 CFR 75.210 will provide the Secretary with the necessary flexibility to ensure that the selection criteria reflect the needs and concerns identified at the time of each competition, including those of the civil rights community. The general selection criteria have been vetted and tested across many Departmental programs, and provide a wide range of factors for evaluating applications in any competition. In addition, adoption of the general selection criteria would allow the Secretary to improve the selection process, based upon experience gained in running the program.

With regard to the concern that EACs be able to provide assistance in all desegregation assistance areas, we decline to add this as a selection criterion because we will be using the general selection criteria under 34 CFR 75.210. However, the Department will ensure that through those criteria, we will select grantees that have the capability to provide technical assistance across all areas of desegregation assistance. The Department expects that each grantee will have the capacity to provide all types of desegregation assistance, in accordance with requests for technical assistance. Finally, with regard to the concern that the selected EACs be able to effect real and lasting change, we expect that future grantees will continue the strong work of current and past EAC grantees, and will provide appropriate levels of technical assistance depending on the requests. This may take the form of information dissemination, which is often necessary to effect change. However, we believe that the selected EACs will be in the best position to determine the appropriate level of technical assistance in response to each request and that such technical assistance will be of sufficient quality, intensity, and duration to lead to improvements in practice among the eligible entities receiving those services.

Changes: None.

§ 270.4 What types of projects are authorized under this program?

Comment: Several commenters expressed support for the addition of "community organizations" to the list of parties that may receive desegregation assistance under this program.

Discussion: The Department appreciates the support for these changes.

Changes: None.

§ 270.5 What geographic regions do the EACs serve?

Comment: Several commenters asked that the Department maintain ten geographic regions, rather than reducing to four geographic regions. Among these, some commenters stated that demand for EAC services is rising, and expressed concern as to how four geographic regions could meet those demands. Some commenters requested that we instead increase the number of geographic regions.

Discussion: The Department believes that allowing the Secretary to determine the number and composition of geographic regions for the program is necessary to maximize the program funds devoted to technical assistance. As noted in the NPRM, Congress has reduced funding for the EAC program significantly since the program was first created. The Department will limit the number of centers to provide each center with more funding, which will help to ensure a greater percentage of funds are used to provide technical assistance and a smaller percentage of funds are devoted to overhead costs. Were the EAC program to receive additional funding in the future, the Department may consider increasing the number of geographic regions, as appropriate.

With regard to the commenters who expressed concern that the demand for EAC services is rising, the Department notes that the regulations seek to streamline EAC services. Thus, the Department believes that these changes will help alleviate issues of excess demand, rather than aggravate them.

Changes: None.

Comment: Two commenters asked the Department to clarify how potential grantees will be able to identify partners and the needs of States if the geographic regions will not be announced until the notice inviting applications.

Discussion: The Department expects that a data-driven approach to identifying regional needs will help potential applicants anticipate the needs of each region and make better use of existing resources, including other Federal technical assistance providers and Federal, State, and local data sources. In addition, the Department anticipates that this will be an ongoing process, and that needs of the States and LEAs within each region will become more apparent throughout the project period. Similarly, while the Department expects applicants will have baseline knowledge of potential partners within the geographic region, we hope that grantees will identify new partners throughout the project period, as appropriate.

Changes: None.

Comment: Several commenters expressed concern with the proposed criteria for determining the number and boundaries of the geographic regions. In addition, several commenters suggested that changing these criteria during an election year would create additional risk to the program. Finally, some commenters expressed general concern that providing the Secretary with flexibility to determine the number and composition of geographic regions for the program would expose the centers to political influences.

Discussion: The Department has identified objective criteria that will be used to establish both the number and the geographic boundaries of each region to be served by the EACs. Through the NPRM, we solicited comments on what factors the Secretary should consider when determining the composition of States in each geographic region, and gave careful consideration to all suggestions. As such, we believe that the criteria identified are sufficient to ensure that boundaries of the new geographic regions are based on appropriate data, and reflect the underlying needs of those regions.

Similarly, because the Department established the criteria for geographic boundaries through public comment and the boundaries will be based on objective measures, we believe the published criteria we will use when determining the number and composition of geographic regions for the EAC program insulate the EAC geographic boundary determinations from political influence.

Changes: None.

Comment: Some commenters suggested that the Department could allow the centers within each existing region to determine which States and LEAs in its region should receive focused attention based on available data.

Discussion: Title IV and our implementing regulations limit the centers to providing services upon request. The demand-driven nature of the program precludes the regional centers from focusing on specific States or LEAs without a request from those States or LEAs. Please note that once an EAC has developed materials in response to a request for technical assistance, that EAC may make those materials available to other interested parties.

Changes: None.

Comment: Several commenters expressed concern that these regulations could jeopardize the relationships between the existing centers and their clients, or would compromise cross-center collaboration. Similarly, several commenters expressed concern that changing the current EAC serving a particular geographic region could affect the viability of multi-year projects underway in that region.

Discussion: While we appreciate commenters' concern that these regulations could disrupt the relationships between existing centers and their clients, we note that the EAC funds are awarded to centers through a competitive grant process. Therefore, there is always, and has always been, a possibility that the center will change during a new award cycle. The Department seeks to ensure that program funds are awarded to the most qualified applicants, which will ensure that program funds are used to maximum effect.

The Department appreciates the commenters' commitment to implementing comprehensive, multi-year plans for combating issues of inequity within their region. The Department notes that the EAC program will continue to fund multi-year grants, and the centers will continue to support multi-year technical assistance activities to improve equity, when necessary.

The Department agrees with commenters that ensuring continuity of services is essential to the work of the EAC program. Therefore, we are revising § 270.30 to require that the EACs selected following a new competition will work with current EACs to support a smooth transition and to minimize disruption for the intended beneficiaries.

Changes: We have revised § 270.30 to include § 270.30(c), which requires that the EACs selected following a new competition must work with current EACs to support a smooth transition and to minimize disruption in the provision of technical assistance.

Comment: Several commenters expressed concern that, were the Department to reduce the number of geographic regions from 10 to 4, a number of beneficiaries would no longer receive services from the EAC program, or would no longer be able to afford them. Commenters expressed particular concern that this could lead to a reduction in services for English learners, low-income, or rural students. Similarly, some commenters expressed concern that consolidating the geographic regions would lead to increased competition between the LEAs in that region. Finally, several commenters expressed a concern that the EACs would focus on serving highly impacted States.

Discussion: The Department does not anticipate that changing the number of geographic regions will result in a reduction in EAC technical assistance provided. First, with regard to demand for services, we note that EACs provide assistance where requested by school boards or other responsible governmental agencies. These services are and will continue to be provided free to responsible governmental agencies and we do not anticipate any impact on the number of requests for assistance from the EACs because of the reduction in the number of geographic regions. With regard to the ability of the EACs to continue to meet the demand for services, the Department believes that consolidating the number of geographic regions will increase efficiency in the use of time, staff, money, and other resources and increase the magnitude of direct technical assistance. We also anticipate that applicants will propose approaches to technical assistance that include the use of existing resources and emerging technologies to improve coordination of center staff and continuous oversight of assistance activities. Furthermore, these regulations do not alter the level of funding established by Congress for the EAC program. As such, the resources available to fund EACs nationwide, as demand dictates, remain the same. For these reasons, we also disagree with the assertion that consolidating the geographic regions could lead to heightened competition amongst the LEAs within each consolidated region.

The Department agrees with commenters that it is important to ensure that LEAs with high numbers of low-income students, rural LEAs, and other traditionally underserved populations continue to benefit from the EAC program. The Department intends to expand the reach of the EACs through these regulations by improving the effectiveness and efficiency of the delivery of services.

We note that the regulations do not use the terms "high impacted States" or "highly impacted States." As noted above, the regulations will not cause the EACs to focus on certain States within a region, because EACs provide services when responsible governmental agencies request assistance, not when EACs conduct outreach. Thus, as is now the case, EACs will continue to serve eligible entities within an entire geographic region, upon request for assistance. Please note that once an EAC has developed materials in response to a request for technical assistance, that EAC may make those materials available to other interested parties.

Changes: None.

Comment: Several commenters expressed concern regarding the potential costs associated with consolidating the geographic regions. Of these commenters, many were concerned that consolidation would result in overreliance on remote technical assistance by the EACs. Although some commenters supported EACs increasing their use of technology, many expressed a belief that the work of the EACs necessitates face-to-face interaction. In addition, some commenters stated that the EACs could not increase the use of remote technical assistance because the EACs are already utilizing technology to the maximum extent possible. Moreover, some commenters expressed concern that poor and rural LEAs and Indian reservations do not have the technological infrastructure to support remote technical assistance. Finally, some commenters expressed concern that consolidation of the geographic regions would result in increased travel costs, as well as the need for more staff and infrastructure within each EAC.

Discussion: The Department believes that the concerns of the commenters are unwarranted. The Department stresses that, while we will consolidate the number of geographic regions, each region will receive a commensurate portion of EAC program funds. The increased funding for each new geographic region should at least partially offset any increased costs for travel, and enable the centers to accrue the necessary staff and infrastructure to serve that geographic region. The Department expects that the EACs will continue to provide on-the-ground technical assistance, and appreciates that such interaction is often a necessary part of combatting entrenched issues that contribute to segregation.

In order to reach a wide array of eligible entities, we also expect that the EACs will enhance their technical assistance capacities through technology. As noted in the NPRM, the Internet now allows EACs to provide effective and coordinated technical assistance across much greater geographic distances than would have been possible when the previous regulations were promulgated in 1987. Thus, while we acknowledge that the EACs already make great use of technology, we expect that the EACs will need to continue to expand their use of technology to reflect the best practices and most current capabilities for providing remote technical assistance. In addition, we note that the current regulations are not intended to curtail in-person technical assistance, but rather acknowledge that significant advances in technology enable EACs to use a variety of methods for providing technical assistance, and that decreases in funding over the past three decades demand that the EACs continue to find novel methods of providing assistance in order to reach a broad range of eligible entities. Furthermore, we note that under the current structure of ten geographic regions, the EACs are already integrating the use of technology to serve the large, geographically dispersed populations within the region and cannot respond to every request with in-person technical assistance. Thus, the EACs will need to continue to exercise professional judgment in considering whether a request for technical assistance can be addressed through remote technical assistance. The Department expects that centers will consider whether there are any barriers to providing and receiving technical assistance remotely. As such, the Department expects that high-quality applicants for funding under the EAC program will propose effective and efficient ways to serve the needs of the entire region.

Changes: None.

Comment: Several commenters expressed concern that reducing the number of regions could negatively affect the collaborative work that the EACs conduct with the Office for Civil Rights (OCR) and Department of Justice (DOJ), or that EACs would have to limit the role they play in supporting individual LEAs reaching settlement agreements with OCR or DOJ. Some of these commenters stated that OCR needs 300 new field investigators, and that reducing the number of EACs would contribute to this void. Other commenters stated that EACs provide technical assistance and training to DOJ and OCR, and expressed a concern that these entities would no longer receive training were the number of geographic regions to be consolidated.

Discussion: The Department anticipates that the EACs will continue to collaborate with the OCR and DOJ, as appropriate. The Department does not anticipate that the EACs will scale back collaboration with these entities, because each EAC will receive funding commensurate with the size of the geographic region. Thus, each EAC will have comparable resources to support LEAs in meeting settlement agreements, upon request.

However, we note that while these entities all address civil rights matters, the role of the EACs is different from, and independent of, the role of OCR and DOJ. It would be inappropriate to base any aspect of the EAC program on the amount of resources devoted to programs aimed at providing similar services to eligible entities. Thus, it is inappropriate to consider the number of OCR field investigators when considering the number of regions for the EAC program. Finally, the Department notes that persons served by the EAC program are limited by section 270.3 to include public school personnel, students, parents, community organizations and other community members. Thus, while the Department anticipates that the EACs will continue to collaborate with OCR and DOJ, it would be inappropriate for the EACs to provide technical assistance to OCR or DOJ using grant funds provided under these regulations.

Changes: None.

Comment: Several commenters proposed additional criteria the Secretary should consider when determining the size and number of the geographic regions. One commenter suggested the Secretary group contiguous States into regions. Other commenters suggested the Secretary consider: Each proposed geographic region's history with inequities; whether a geographic area contains urban, suburban, rural, or frontier populations; the size and diversity of the student population; emerging issues in the field; active school desegregation cases; geographic miles served and number of LEAs; and number of civil rights complaints filed over a given time period in each region. Additional commenters suggested that the Department consider the distrust of Federal government agencies; the historical relationship between the Federal government and tribal schools, and the element of trust within that relationship; cultural affinity; the weather; and the politics of the region.

Discussion: The Department agrees with one commenter's suggestion that priority be given to grouping contiguous States into regions, as States in similar geographic regions tend to face similar equity issues. The Department also plans to examine each region's history in addressing issues of equity, active school desegregation cases, number of civil rights complaints, and emerging issues in the field by examining the history of EAC and other Departmental technical assistance activities. The Department will limit its analysis to the composition of urban, city, and rural LEAs in each geographic region, because these are the designations for which we have available data. The size and diversity of the student population is included within § 270.5(c)(1). In addition, the number of LEAs in each geographic region is included under § 270.5(c)(2), and the Department believes this is a better measurement of the need of a region than geographic miles covered. The Department declines to incorporate all additional suggested criteria, because they are not aligned with the goals of the program and there is no clear way of measuring those suggested criteria.

Changes: We have revised § 270.5(c) to include a consideration of the geographic proximity of the States within each region.

Comment: One commenter expressed concern that consolidating the number of EACs would expand the EACs' scope of responsibility into areas and issues associated with geographic regions for which they are not familiar.

Discussion: The Department expects high-quality applicants to be able to provide technical assistance across all desegregation assistance areas the program covers. The Department further expects that, if an EAC did not have experience in addressing a request for technical assistance, it would develop that expertise or partner with other EACs or Federal technical assistance centers to develop that expertise collaboratively. Such coordination would be within the scope of § 270.30(b), which requires EACs to coordinate assistance with appropriate SEAs, Comprehensive Centers, Regional Educational Laboratories, and other Federal technical assistance centers. The Department expects high-quality applicants to identify adequate supports and leverage all available resources, including non-Federal resources, in light of the program's current funding level. In doing so, we believe that EACs will have the capacity to effectively respond to the particular needs of each region.

Changes: None.

Section 270.7 What definitions apply to this program?

Comment: Several commenters expressed support for the Department clarifying and updating the definition of "sex desegregation" to explain that sex desegregation includes desegregation based on transgender status, gender identity, sex stereotypes, and pregnancy and related conditions consistent with the Department's interpretation of "sex" under Title IX of the Education Amendments of 1972 (Title IX) and implementing regulations, and the interpretations and rules of other Federal agencies. No commenters opposed including all of these terms in the Department's proposed definition. In addition, some commenters suggested that the definition of "sex desegregation" should include desegregation based on "sexual orientation," and that sex stereotyping should specify that stereotypical notions of gender include the sex-role expectation that females should be attracted to and romantically involved only with males (and not females) and that males should be attracted to and romantically involved only with females (and not males).

Discussion: In the NPRM, the Department noted that it updated the definition of "sex desegregation" to clarify to whom it applies and highlight some emerging issues for which EACs may provide technical assistance, including the treatment of students with regard to sex stereotypes.

In the NPRM, the Department also noted that the inclusion of "sex stereotypes" was aligned with our Office for Civil Rights' interpretation of the prohibition of sex discrimination in Title IX and its regulations, and was consistent with other Federal agencies' recent regulatory proposals, which defined "sex stereotypes" to include treating a person differently because he or she does not conform to sex-role expectations by being in a relationship with a person of the same sex. After the NRPM, the Department of Health and Human Services and the Department of Labor both issued final regulations providing that sex stereotyping includes expectations related to the appropriate roles and behavior of a certain sex. 81 FR 31,376, 31,468 (May 18, 2016) (to be codified at 45 CFR 92.4); 81 FR 39,108, 39,168 (June 15, 2016) (to be codified at 41 CFR 60–20.7(a)(3)).

Some Federal district courts have recognized in the wake of the Supreme Court's decision in Price Waterhouse v. Hopkins, 490 U.S. 228 (1989), that discrimination on the basis of "sex" includes discrimination based on sex stereotypes about sexual attraction and sexual behavior or about deviations from "heterosexually defined gender norms." See, *e.g., Videckis* v. *Pepperdine Univ.,* No. CV1500298DDPJCX, 2015 WL 8916764 (C.D. Cal. Dec. 15, 2015); *Isaacs* v. *Felder,* 2015 WL 6560655 (M.D. Ala. Oct. 29, 2015); *Baldwin* v. *Dep't of Transp.,* Appeal No. 0120133080, Agency No. 2012–24738–FAA–03 (July 15, 2015) ("Sexual orientation discrimination . . . is sex discrimination because it necessarily involves discrimination based on gender stereotypes."). For example, Videckis held that the distinction between discrimination based on gender stereotyping and sexual orientation is artificial, and that claims based on sexual orientation are covered by Title VII and Title IX as sex or gender discrimination. As the Department noted in the NPRM, interpretations of Title IX and its regulations are particularly relevant to the meaning of "sex" under Title IV because Congress's 1972 amendment to Title IV to add sex as an appropriate desegregation assistance area was included in Title IX. Discrimination against an individual because he or she does not conform to sex-role expectations by being attracted to or in a relationship with a person of the same sex will inevitably rely on sex stereotypes. Therefore, in order to provide clarity for EACs on a type of sex discrimination on which they may provide technical assistance, the Department is amending the regulation by adding this language after the reference to "sex stereotypes" as an example of one included in the commentary of the NPRM.

Changes: The Department will amend the definition of "sex desegregation" to add the phrase "such as treating a person differently because he or she does not conform to sex-role expectations because he or she is attracted to or is in a relationship with a person of the same sex" after "sex stereotypes."

Comment: Several commenters expressed support for the Department's proposal to add a definition of "religion desegregation," and to incorporate religion into the definitions of "desegregation assistance" and "desegregation assistance areas." Additional commenters supported the addition, but requested that the Department amend the definition of "religion desegregation" or provide additional guidance to ensure that this does not result in harm to other students' civil rights, result in discrimination, or deprive any student of educational opportunities due to another student's religious beliefs. In addition, one commenter expressed that the Department should add "religious desegregation" only if additional funds are provided. Finally, one commenter opposed the addition of "religion desegregation" as being out of alignment with the other desegregation assistance activities carried out under this program.

Discussion: First, the Department appreciates the support expressed by many commenters for these changes. The Department is satisfied that the definition of "religion desegregation" set forth in the proposed regulations is the most appropriate one for the work of the EAC program. The Department notes that religion is specifically included in the definition of "desegregation" in Section 401 of Title IV, the statute authorizing the EAC program. Under Title IV the Secretary is authorized to provide technical assistance to support the desegregation of public schools and the assignment of students to schools without regard to religion. The addition of "religious desegregation" does not alter the civil rights of students, but rather provides the EACs the ability to assist schools to address religion desegregation matters. The Department is aware of an increasing number of incidents of anti-Semitic bullying and harassment in public schools. See, *e.g.,* T.E. v. Pine Bush Cent. Sch. Dist., 58 F. Supp. 3d 332 (S.D.N.Y. 2014). In addition, the Department is aware of reports documenting that students who are or are perceived as Hindu, Muslim, Sikh, Arab, Middle Eastern, South Asian, or Southeast Asian are frequent targets of bullying and harassment. Given the increasing religious diversity in the United States, and the increased tension that has developed in many of our schools related to a student's actual or perceived religion, the Department believes these regulations are necessary to provide support and technical assistance for schools to assist in developing effective strategies to ensure all students have a full opportunity to participate in educational programs, regardless of religion. The Department believes that the need and ability for EACs to provide technical assistance to address religion desegregation should not be tied to the EAC funding levels. Accordingly, the Department declines to change the regulations based on these comments.

Changes: None.

Comment: One commenter suggested that the Department update the definition of "race desegregation" to reflect the nature of modern desegregation efforts. Another commenter expressed concern that the caveat that "race desegregation" does not mean the assignment of students to public schools to correct conditions of racial separation that are not the result of State or local law or official action was too limiting. This commenter suggested that the Department define racial desegregation "to include racial integration efforts permitted by law and the Department's guidance."

Discussion: The definition of "race desegregation" is rooted in the definition of "desegregation" under section 401 of Title IV. In section 401(b), Congress defined "desegregation" to mean the assignment of students to public schools and within such schools without regard to their race, color, religion, sex, or national origin. The definition under section 401(b) specifies that "desegregation" shall not mean the assignment of students to public schools in order to overcome racial imbalance. Thus, the Department believes that the current definition of "race desegregation" incorporates the statutory definition.

Changes: None.

Comment: One commenter requested that the Department amend the definition of "Special educational problems occasioned by desegregation" to problems that arise "in the course of" rather than "as a result of" desegregation efforts. Another commenter suggested that the Department change the term "special educational problems occasioned by desegregation," rather than add a definition for the existing term. Both expressed that the term and its definition presented a deficit-based perspective on desegregation activities, rather than focusing on the benefits of these activities.

Discussion: The term "special educational problems occasioned by desegregation" is rooted in section 403 of Title IV, which states that technical assistance may, among other activities, include making available to such agencies information regarding effective methods of coping with special educational problems occasioned by desegregation. Thus, we decline to alter the term "special educational problems occasioned by desegregation." However, the Department agrees that the underlying definition would be better served by referring to problems that arise "in the course of" rather than "as a result of" desegregation efforts because the language of the former more accurately reflects the scope of activities covered under "special educational problems occasioned by desegregation."

Changes: We have revised the definition of "special educational problems occasioned by desegregation" under § 270.7 to mean those issues that arise in classrooms, schools, and communities in the course of desegregation efforts based on race, national origin, sex, or religion.

Comment: One commenter suggested that the Department adopt language requiring greater parent and parent organization engagement in informing EAC work with schools and LEAs. Similarly, another commenter advocated that the Department require successful applicants to demonstrate substantive partnership with parent organizations.

Discussion: Proposed § 270.4 added "community organizations" to the list of parties that may receive desegregation assistance under this program. The Department interprets "community organizations" to include parent organizations. The Department believes that this addition will enable greater parent organization involvement in EAC technical assistance activities. Furthermore, we note that parents of students are eligible to receive technical assistance under the EAC program.

With regard to the request that the Department require successful applicants to the EAC program to demonstrate substantive partnership with parent organizations, the Department expects that the EACs will engage all interested beneficiaries and eligible stakeholders within an LEA that requests technical assistance. However, the Department believes that the EACs are in the best position to assess who to engage based on the factual situation encountered, in order to successfully address an identified need for desegregation assistance. Thus, the Department declines to add a requirement that applicants demonstrate a substantive partnership with parent organizations.

Changes: None.

Section 270.32 What limitation is imposed on providing Equity Assistance under this program?

Comment: One commenter opposed proposed § 270.32 and suggested that the Department clarify that the regulation will not prevent EACs from assisting LEAs in need of support and assistance with inclusive curriculum design. Another commenter proposed that the Department amend current § 270.6(b) to read that the activities prohibited under § 270.6(a) do not prohibit the DACs from assisting LEAs with implementing appropriate language services for English Learner students.

Discussion: Consistent with the General Education Provisions Act, 20 U.S.C. 1232(a), we cannot and do not authorize centers to exercise direction or control over the curriculum. The Department believes it necessary to amend previous § 270.6(b) because, as drafted, § 270.6(b) could be misconstrued to permit the development or implementation of activities for direct instruction;

removing this provision will ensure clarity. The Department agrees that EACs could provide technical assistance to ensure that English learner programs do not unjustifiably segregate students on the basis of national origin or English learner status, consistent with our "Dear Colleague Letter: English Learner Students and Limited English Proficient Parents" (Jan. 7, 2015), (*http://www2.ed.gov/ocr/letters/colleague-el-201501.pdf*). Because the Department has developed publicly available guidance on the responsibilities of SEAs and LEAs to ensure equal educational opportunities for English learners, we do not believe it is necessary to add this to the regulation.

Changes: None.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an "economically significant" rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

Discussion of Costs and Benefits: We have determined that the potential costs associated with this regulatory action will be minimal while the potential benefits are significant.

For EAC grants, applicants may anticipate costs in developing their applications. Application, submission, and participation in a competitive discretionary grant program are voluntary. The final regulations will create flexibility for us to use general selection criteria listed in EDGAR 75.210. We believe that any criterion from EDGAR 75.210 used in a grant competition will not impose a financial burden that applicants would not otherwise incur in the development and submission of a grant application. Other losses may stem from the reduction of the number of regional centers for those applicants that do not receive a grant in future funding years, including the costs of phasing out those centers and associated job losses. Additionally, due to the consolidation of EACs, the remaining geographic regions will cover a larger geographic range. As a result, future grantees may experience increased travel costs in providing in-person technical assistance. However, this should be offset in part by an increased amount of funding, commensurate with the size of its geographic region.

We do not believe that reducing the number of regions will prevent EACs from providing technical assistance across the country. Technological advancements allow EACs to provide effective and coordinated technical assistance across much greater geographic distances than when the previous regulations were promulgated.

The benefits include enhancing project design and quality of services to better meet the statutory objectives of the programs. These changes will allow more funds to be used directly for providing technical assistance to responsible governmental agencies for their work in equity and desegregation, by reducing the amount of funds directed to overhead costs. The flexibility of the geographic regions will increase the Department's ability to be strategic with limited resources. In addition, these changes will result in each center receiving a greater percentage of the overall funds for the program, and this greater percentage and amount of funds for each selected applicant will help to incentivize an increased quality and diversity of applicants.

In addition, the Secretary believes that students covered under sex desegregation and religion desegregation will strongly benefit from the final regulations. The revised definition of "sex desegregation" will provide clarification regarding the scope of issues covered under sex desegregation, removing any confusion about appropriate technical assistance. For religion desegregation, grantees will need to provide technical assistance to responsible governmental agencies seeking assistance on this subject, but the costs associated with these new technical assistance activities will be covered by program funds.

Paperwork Reduction Act of 1995

These final regulations do not contain any information collection requirements.

Intergovernmental Review

This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for these programs.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

(Catalog of Federal Domestic Assistance Number: 84.004D)

List of Subjects in 34 CFR Parts 270, 271, and 272

Elementary and secondary education, Equal educational opportunity, Grant programs—education, Reporting and recordkeeping requirements.

Dated: July 12, 2016.

Ann Whalen,

Senior Advisor to the Secretary Delegated the Duties of Assistant Secretary for Elementary and Secondary Education.

For the reasons discussed in the preamble, the Secretary of Education amends parts 270, 271, and 272 of title 34 of the Code of Federal Regulations as follows:

■ 1. Part 270 is revised to read as follows:

PART 270—EQUITY ASSISTANCE CENTER PROGRAM

Subpart A—General

Sec.
270.1 What is the Equity Assistance Center Program?
270.2 Who is eligible to receive a grant under this program?
270.3 Who may receive assistance under this program?
270.4 What types of projects are authorized under this program?
270.5 What geographic regions do the EACs serve?
270.6 What regulations apply to this program?
270.7 What definitions apply to this program?

Subpart B—[RESERVED]

Subpart C—How Does the Secretary Award a Grant?

Sec.
270.20 How does the Secretary evaluate an application for a grant?
270.21 How does the Secretary determine the amount of a grant?

Subpart D—What Conditions Must I Meet after I Receive a Grant?

Sec.
270.30 What conditions must be met by a recipient of a grant?
270.31 What stipends and related reimbursements are authorized under this program?
270.32 What limitation is imposed on providing Equity Assistance under this program?

Authority: 42 U.S.C. 2000c—2000c–2, 2000c–5, unless otherwise noted.

Subpart A—General

§ 270.1 What is the Equity Assistance Center Program?

This program provides financial assistance to operate regional Equity Assistance Centers (EACs), to enable them to provide technical assistance (including training) at the request of school boards and other responsible governmental agencies in the preparation, adoption, and implementation of plans for the desegregation of public schools, and in the development of effective methods of coping with special educational problems occasioned by desegregation.

§ 270.2 Who is eligible to receive a grant under this program?

A public agency (other than a State educational agency or a school board) or private, nonprofit organization is eligible to receive a grant under this program.

§ 270.3 Who may receive assistance under this program?

(a) The recipient of a grant under this part may provide assistance only if requested by school boards or other responsible governmental agencies located in its geographic region.

(b) The recipient may provide assistance only to the following persons:

(1) Public school personnel.

(2) Students enrolled in public schools, parents of those students, community organizations and other community members.

§ 270.4 What types of projects are authorized under this program?

(a) The Secretary may award funds to EACs for projects offering technical assistance (including training) to school boards and other responsible governmental agencies, at their request, for assistance in the preparation, adoption, and implementation of plans for the desegregation of public schools.

(b) A project must provide technical assistance in all four of the desegregation assistance areas, as defined in 34 CFR 270.7.

(c) Desegregation assistance may include, among other activities:

(1) Dissemination of information regarding effective methods of coping with special educational problems occasioned by desegregation;

(2) Assistance and advice in coping with these problems; and

(3) Training designed to improve the ability of teachers, supervisors, counselors, parents, community members, community organizations, and other elementary or secondary school personnel to deal effectively with special educational problems occasioned by desegregation.

§ 270.5 What geographic regions do the EACs serve?

(a) The Secretary awards a grant to provide race, sex, national origin, and religion desegregation assistance under this program to regional EACs serving designated geographic regions.

(b) The Secretary announces in the **Federal Register** the number of centers and geographic regions for each competition.

(c) The Secretary determines the number and boundaries of each geographic region for each competition on the basis of one or more of the following:

(1) Size and diversity of the student population;

(2) The number of LEAs;

(3) The composition of urban, city, and rural LEAs;

(4) The history and frequency of the EAC and other Department technical assistance activities;

(5) Geographic proximity of the States within each region; and

(6) The amount of funding available for the competition.

§ 270.6 What regulations apply to this program?

The following regulations apply to this program:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR part 75 (Direct Grant Programs), part 77 (Definitions That Apply to Department Regulations), part 79 (Intergovernmental Review of Department of Education Programs and Activities), and part 81 (General Education Provisions Act—Enforcement), except that 34 CFR 75.232 (relating to the cost analysis) does not apply to grants under this program.

(b) The regulations in this part.

(c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted in 2 CFR part 3474 and the OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted in 2 CFR part 3485.

§ 270.7 What definitions apply to this program?

In addition to the definitions in 34 CFR 77.1, the following definitions apply to the regulations in this part:

Desegregation assistance means the provision of technical assistance (including training) in the areas of race, sex, national origin, and religion desegregation of public elementary and secondary schools.

Desegregation assistance areas means the areas of race, sex, national origin, and religion desegregation.

English learner has the same meaning under this part as the same term defined in section 8101(20) of the Elementary and Secondary Education Act, as amended.

(Authority: Section 8101(20) of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act, Pub. L. 114–95 (2015) (ESSA))

Equity Assistance Center means a regional desegregation technical assistance and training center funded under this part.

National origin desegregation means the assignment of students to public schools and within those schools without regard to their national origin, including providing students such as those who are English learners with a full opportunity for participation in all educational programs regardless of their national origin.

Public school means any elementary or secondary educational institution operated by a State, subdivision of a State, or governmental agency within a State, or operated wholly or predominantly from or through the use of governmental funds or property, or funds or property derived from governmental sources.

Public school personnel means school board members and persons who are employed by or who work in the schools of a responsible governmental agency, as that term is defined in this section.

Race desegregation means the assignment of students to public schools and within those schools without regard to their race, including providing students with a full opportunity for participation in all educational programs regardless of their race. "Race desegregation" does not mean the assignment of students to public schools to correct conditions of racial separation that are not the result of State or local law or official action.

Religion desegregation means the assignment of students to public schools and within those schools without regard to their religion, including providing students with a full opportunity for participation in all educational programs regardless of their religion.

Responsible governmental agency means any school board, State, municipality, LEA, or other governmental unit legally responsible for operating a public school or schools.

School board means any agency or agencies that administer a system of one or more public schools and any other agency that is responsible for the assignment of students to or within that system.

Sex desegregation means the assignment of students to public schools and within those schools without regard to their sex (including transgender status; gender identity; sex stereotypes, such as treating a person differently because he or she does not conform to sex-role expectations because he or she is attracted to or is in a relationship with a person of the same sex; and pregnancy and related conditions), including providing students with a full opportunity for participation in all educational programs regardless of their sex.

Special educational problems occasioned by desegregation means those issues that arise in classrooms, schools, and communities in the course of desegregation efforts based on race, national origin, sex, or religion. The phrase does not refer to the provision of special education and related services for students with disabilities as defined under the Individuals with Disabilities Education Act (20 U.S.C. 1400 *et seq.*)

Subpart B—[RESERVED]

Subpart C—How Does the Secretary Award a Grant?

§ 270.20 How does the Secretary evaluate an application for a grant?

(a) The Secretary evaluates the application on the basis of the criteria in 34 CFR 75.210.

(b) The Secretary selects the highest ranking application for each geographic region to receive a grant.

§ 270.21 How does the Secretary determine the amount of a grant?

The Secretary determines the amount of a grant on the basis of:

(a) The amount of funds available for all grants under this part;

(b) A cost analysis of the project (that shows whether the applicant will achieve the objectives of the project with reasonable efficiency and economy under the budget in the application), by which the Secretary:

(1) Verifies the cost data in the detailed budget for the project;

(2) Evaluates specific elements of costs; and

(3) Examines costs to determine if they are necessary, reasonable, and allowable under applicable statutes and regulations;

(c) Evidence supporting the magnitude of the need of the responsible governmental agencies for desegregation assistance in the geographic region and the cost of providing that assistance to meet those needs, as compared with the evidence supporting the magnitude of the needs for desegregation assistance, and the cost of providing it, in all geographic regions for which applications are approved for funding;

(d) The size and the racial, ethnic, or religious diversity of the student population of the geographic region for which the EAC will provide services; and

(e) Any other information concerning desegregation problems and proposed activities that the Secretary finds relevant in the applicant's geographic region.

Subpart D—What Conditions Must I Meet after I Receive a Grant?

§ 270.30 What conditions must be met by a recipient of a grant?

(a) A recipient of a grant under this part must:

(1) Operate an EAC in the geographic region to be served; and

(2) Have a full-time project director.

(b) A recipient of a grant under this part must coordinate assistance in its geographic region with appropriate SEAs, Comprehensive Centers, Regional Educational Laboratories, and other Federal technical assistance centers. As part of this coordination, the recipient shall seek to prevent duplication of assistance where an SEA, Comprehensive Center, Regional Educational Laboratory, or other Federal technical assistance center may have already provided assistance to the responsible governmental agency.

(c) A recipient of a grant under this part must communicate and coordinate with the most recent EAC grant recipient(s) in its region, as needed, to ensure a smooth transition for ongoing technical assistance under the EAC program.

§ 270.31 What stipends and related reimbursements are authorized under this program?

(a) The recipient of an award under this program may pay:

(1) Stipends to public school personnel who participate in technical assistance or training activities funded under this part for the period of their attendance, if the person to whom the stipend is paid receives no other compensation for that period; or

(2) Reimbursement to a responsible governmental agency that pays substitutes for public school personnel who:

(i) Participate in technical assistance or training activities funded under this part; and

(ii) Are being compensated by that responsible governmental agency for the period of their attendance.

(b) A recipient may pay the stipends and reimbursements described in this section only if it demonstrates that the payment of these costs is necessary to the success of the technical assistance or training activity, and will not exceed 20 percent of the total award.

(c) If a recipient is authorized by the Secretary to pay stipends or reimbursements (or any combination of these payments), the recipient shall determine the conditions and rates for these payments in accordance with appropriate State policies, or in the absence of State policies, in accordance with local policies.

(d) A recipient of a grant under this part may pay a travel allowance only to a person who participates in a technical assistance or training activity under this part.

(e) If the participant does not complete the entire scheduled activity, the recipient may pay the participant's transportation to his or her residence or place of employment only if the participant left the training activity because of circumstances not reasonably within his or her control.

§ 270.32 What limitation is imposed on providing Equity Assistance under this program?

A recipient of a grant under this program may not use funds to assist in the development or implementation of activities or the development of curriculum materials for the direct instruction of students to improve their academic and vocational achievement levels.

PART 271 [REMOVED AND RESERVED]

■ 2. Under the authority of section 414 of the Department of Education Organization Act, 20 U.S.C. 3474, part 271 is removed and reserved.

PART 272 [REMOVED AND RESERVED]

■ 3. Under the authority of section 414 of the Department of Education Organization Act, 20 U.S.C. 3474, part 272 is removed and reserved.

[FR Doc. 2016–16811 Filed 7–15–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

34 CFR Chapter II

[Docket ID ED–2016–OESE–0015; CFDA Number: 84.004D]

Final Priority and Requirement—Equity Assistance Centers

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Final priority and requirement.

SUMMARY: The Assistant Secretary for Elementary and Secondary Education (Assistant Secretary) announces a priority and a requirement under the Equity Assistance Centers (EAC) program. The Assistant Secretary may use this priority and this requirement for competitions in fiscal year 2016 and later years. We take this action to encourage applicants with a track record of success or demonstrated expertise in socioeconomic integration strategies that are effective for addressing problems occasioned by the desegregation of schools based on race, national origin, sex, or religion. We intend for the priority and the requirement to help ensure that grant recipients have the capacity to support responsible governmental agencies as they seek to increase socioeconomic diversity, to create successful plans for desegregation, and to address special educational problems occasioned by bringing together students from different social, economic, religious, and racial backgrounds.

DATES: This priority and requirement is effective August 17, 2016.

FOR FURTHER INFORMATION CONTACT: Britt Jung, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E206, Washington, DC 20202–6135. Telephone: (202) 205–4513 or by email: *britt.jung@ed.gov*.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Purpose of Program: The EAC program awards grants through cooperative agreements to operate regional EACs that provide technical assistance (including training) at the request of school boards and other responsible governmental agencies in the preparation, adoption, and implementation of plans for the desegregation of public schools and in the development of effective methods of addressing special educational problems occasioned by desegregation.

Program Authority: 20 U.S.C. 1221e–3; 42 U.S.C. 2000c—2000c–2 and 2000c–5.

Applicable Program Regulations: 34 CFR part 270.

Note: We published a notice of final regulations elsewhere in this issue of the **Federal Register**.

We published a notice of proposed priority and requirement for this program in the **Federal Register** on April 1, 2016 (81 FR 18818). That notice contained background information and our reasons for proposing the particular priority and requirement.

There are no differences between the proposed priority and requirement and this final priority and requirement.

Public Comment: In response to our invitation in the notice of proposed priority and requirement, one party submitted a substantive comment on the proposed priority and requirement. Generally, we do not discuss technical and other minor changes.

Analysis of Comment: An analysis of the comment follows.

Comment: One commenter stated that expertise in socioeconomic integration strategies is valuable, but recommended that we eliminate the proposed priority on the basis that expertise in areas of sex, race, and national origin desegregation is more important. The commenter was particularly opposed to the proposed priority being used as an absolute priority. The commenter asserted that it is more important to include a priority for staff qualifications, including expertise in Federal, State, and local laws related to sex, race, and national origin discrimination and expertise in related research on what works to increase all types of integration and avoid discrimination.

Discussion: While we agree that staff qualifications should include expertise in Federal, State, and local laws related to sex, race, and national origin desegregation and related research, we believe that a priority for expertise in providing technical assistance to increase socioeconomic diversity will strengthen EAC programs without detracting from the existing issue areas.

As noted in the notice of proposed priority and requirement, more than one-third of all American Indian/Alaska Native students and nearly half of all African-American and Latino students attend high-poverty schools.[1] Students attending high-poverty schools continue to have unequal access to: (1) Advanced coursework; (2) the most effective teachers; and (3) necessary funding and supports.[2] Moreover, research shows that States with less socioeconomically diverse schools tend to have larger achievement gaps between low- and higher-income students.[3]

We believe that socioeconomic integration strategies can be vital tools for EAC technical assistance centers in their work to support all four areas of desegregation assistance: Race, sex, national origin, and religion. The addition of this priority does not alter the civil rights of students, but rather seeks to ensure that EAC technical assistance centers will have the tools to use socioeconomic integration strategies in supporting students' existing rights. We further note that title IV of the Civil Rights Act of 1964 and our implementing regulations limit the centers to providing services upon request. The demand-driven nature of the program precludes the regional centers from choosing to focus on any desegregation assistance area at the expense of another. Instead, all EAC technical assistance centers will be expected to provide assistance across all of the desegregation assistance areas, upon request.

---

[1] National Center for Education Statistics. (2014). Digest of Education Statistics, Table 216.6. Retrieved from *http://nces.ed.gov/programs/digest/d14/tables/dt14_216.60.asp.*

[2] See, *e.g.*, National Center for Education Statistics. (2013). Digest of Education Statistics, Table 225.40. Retrieved from: *http://nces.ed.gov/programs/digest/d13/tables/dt13_225.40.asp.*

Max, Jeffrey, and Steven Glazerman (2014). "Do Disadvantaged Students Get Less Effective Teaching?" U.S. Department of Education, National Center for Education Evaluation and Regional Assistance. Washington, DC: Government Printing Office. Retrieved from: *http://ies.ed.gov/ncee/pubs/20144010/pdf/20144010.pdf.*

Gray, Lucinda, *et al.* Educational Technology in U.S. Public Schools: Fall 2008 (Apr. 2010) (NCES 2010–034). U.S. Department of Education, National Center for Education Statistics, available at: *http://nces.ed.gov/pubs2010/2010034.pdf.*

Wells, John, and Laurie Lewis. Internet Access in U.S. Public Schools and Classrooms: 1994–2005 (November 2006). U.S. Department of Education, National Center for Education Statistics, available at: *http://nces.ed.gov/pubs2007/2007020.pdf.*

[3] Mantil, Ann, Anne G. Perkins, and Stephanie Aberger. (February 27, 2012). "The Challenge of High Poverty Schools: How Feasible Is Socioeconomic School Integration?" In "The Future of School Integration," Kahlenberg, Richard D., ed. The Century Foundation. pp 155–222.

We also note that the establishment of this priority does not identify it as an absolute priority. Instead, we will designate the type of priority, whether absolute, competitive preference, or invitational, through a notice in the **Federal Register** for each competition.

Changes: None.

Final Priority

This notice contains one final priority.

A track record of success or demonstrated expertise in developing or providing technical assistance to increase socioeconomic diversity in schools or school districts as a means to further desegregation by race, sex, national origin, and religion.

Final Priority

Eligible applicants that have a track record of success or demonstrated expertise in both of the following:

(a) Providing effective and comprehensive technical assistance on strategies or interventions supported by evidence and designed to increase socioeconomic diversity within or across schools, districts, or communities; and

(b) Researching, evaluating, or developing strategies or interventions supported by evidence and designed to increase socioeconomic diversity within or across schools, districts, or communities.

Types of Priorities

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Requirement

Conducting Outreach and Engagement: When providing technical assistance on socioeconomic diversity in response to requests from responsible governmental agencies as a means to further desegregation by race, sex, national origin, and religion, a grantee under this program must assist in conducting outreach and engagement on strategies or interventions designed to increase socioeconomic diversity with appropriate stakeholders, including community members, parents, and teachers.

This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use this priority or requirement, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an "economically significant" rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

We are issuing this final priority and requirement only on a reasoned determination that its benefits justify its costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: July 12, 2016.

Ann Whalen,

Senior Advisor to the Secretary Delegated the Duties of Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2016–16810 Filed 7–15–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Equity Assistance Centers

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

Overview Information:

Equity Assistance Centers

Notice inviting applications for new awards for fiscal year (FY) 2016.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.004D.

DATES:

Applications Available: July 18, 2016.

Deadline for Transmittal of Applications: August 22, 2016.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The Equity Assistance Centers (EAC) program is authorized under title IV of the Civil Rights Act of 1964, 42 U.S.C. 2000c—2000c–2, 2000c–5, and the implementing regulations in 34 CFR part 270. This program awards grants through cooperative agreements to operate regional EACs that provide technical assistance (including training) at the request of school boards and other responsible governmental agencies in the preparation, adoption, and implementation of plans for the desegregation of public schools—which in this context means plans for equity (including desegregation based on race, national origin, sex, and religion)—and in the development of effective methods of coping with special educational problems occasioned by desegregation. Assistance may include, among other activities: (1) Dissemination of information regarding effective methods of coping with special educational problems occasioned by desegregation; (2) assistance and advice in coping with these problems; and (3) training designed to improve the ability of teachers, supervisors, counselors, parents, community members, community organizations, and other elementary or secondary school personnel to deal effectively with special educational problems occasioned by desegregation.

Priorities: This notice contains one competitive preference priority and one invitational priority. The competitive preference priority is from the notice of final priority and requirement for this program published elsewhere in this issue of the **Federal Register**.

Competitive Preference Priority: For FY 2016 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(i) we award up to an additional five points to an application, depending on how well the application addresses this priority. If an applicant wishes to be considered for this priority, the applicant must submit a supplemental narrative describing how the applicant meets this priority.

This priority is:

A track record of success or demonstrated expertise in developing or providing technical assistance to increase socioeconomic diversity in schools or school districts as a means to further desegregation by race, sex, national origin, and religion.

The Department will award up to five additional points to eligible applicants that have a track record of success or demonstrated expertise in both of the following:

(a) Providing effective and comprehensive technical assistance on strategies or interventions supported by evidence and designed to increase socioeconomic diversity within or across schools, districts, or communities; and

(b) Researching, evaluating, or developing strategies or interventions supported by evidence and designed to increase socioeconomic diversity within or across schools, districts, or communities.

Invitational Priority: For FY 2016 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an invitational priority. Under 34 CFR 75.105(c)(1) we do not give an application that meets this invitational priority a competitive or absolute preference over other applications.

This priority is:

A track record of success or demonstrated expertise in providing effective technical assistance on strategies to ensure equitable access to effective teachers and leaders, particularly for students from low-income families and students of color across and within schools and districts.

The Department seeks applications from eligible applicants that have a track record of success or demonstrated expertise in both of the following:

(a) Developing and providing technical assistance with the goal of ensuring that low-income children and children of color are not served at disproportionate rates by ineffective, out-of-field, or inexperienced teachers or ineffective leaders, including assistance to ensure continuous improvement toward such goals; and

(b) Researching or evaluating teacher and leader recruitment, support, and retention policies and practices, specifically with respect to their impact on the equitable access to effective teachers and leaders for low-income children and children of color.

Program Requirement: This requirement is from the notice of final priority and requirement for this program published elsewhere in this issue of the **Federal Register**. The following requirement applies to all applicants awarded a grant under this competition that receive points under the competitive preference priority:

Conducting Outreach and Engagement: When providing technical assistance on socioeconomic diversity in response to requests from responsible governmental agencies as a means to further desegregation by race, sex, national origin, and religion, a grantee under this program must assist in conducting outreach and engagement on strategies or interventions designed to increase socioeconomic diversity with appropriate stakeholders, including community members, parents, and teachers.

Definitions: The following definitions apply to this competition and, except as otherwise noted, are from the notice of final regulations, published elsewhere in this issue of the **Federal Register**.

Desegregation assistance means the provision of technical assistance (including training) in the areas of race, sex, national origin, and religion desegregation of public elementary and secondary schools.

Desegregation assistance areas mean the areas of race, sex, national origin, and religion desegregation.

English learner has the same meaning as the same term defined in section 8101(20) of the Elementary and Secondary Education Act, as amended.

Authority: Section 8101(20) of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act, Public Law 114–95 (2015) (ESSA).

Equity Assistance Center means a regional desegregation technical assistance and training center funded under this part.

National origin desegregation means the assignment of students to public schools and within those schools without regard to their national origin, including providing students such as those who are English learners with a full opportunity for participation in all educational programs regardless of their national origin.

Public school means any elementary or secondary educational institution operated by a State, subdivision of a State, or governmental agency within a State, or operated wholly or predominantly from or through the use of governmental funds or property, or funds or property derived from governmental sources.

Public school personnel means school board members and persons who are employed by or who work in the schools of a responsible governmental agency, as that term is defined in this section.

Race desegregation means the assignment of students to public schools and within those schools without regard to their race, including providing students with a full opportunity for participation in all educational programs regardless of their race. "Race desegregation" does not mean the assignment of students to public schools to correct conditions of racial separation that are not the result of State or local law or official action.

Religion desegregation means the assignment of students to public schools and within those schools without regard to their religion, including providing students with a full opportunity for participation in all educational programs regardless of their religion.

Responsible governmental agency means any school board, State, municipality, LEA, or other governmental unit legally responsible for operating a public school or schools.

School board means any agency or agencies that administer a system of one or more public schools and any other agency that is responsible for the assignment of students to or within that system.

Sex desegregation means the assignment of students to public schools and within those schools without regard to their sex (including transgender status; gender identity; sex stereotypes, such as treating a person differently because he or she does not conform to sex-role expectations because he or she is attracted to or is in a relationship with a person of the same sex; and pregnancy and related conditions), including providing students with a full opportunity for participation in all educational programs regardless of their sex.

Special educational problems occasioned by desegregation means those issues that arise in classrooms, schools, and communities in the course of desegregation efforts based on race, national origin, sex, or religion. The phrase does not refer to the provision of special education and related services for students with disabilities as defined under the Individuals with Disabilities Education Act (20 U.S.C. 1400 *et seq.*).

Program Authority: 42 U.S.C. 2000c—2000c–2, 2000c–5.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The notice of final regulations for this program, published elsewhere in this issue of the **Federal Register**. (e) The notice of final priority and requirement for this program, published elsewhere in this issue of the **Federal Register**.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Cooperative agreement.

Estimated Available Funds: $6,518,563.

Estimated Range of Awards: $1,400,000–$1,700,000.

Estimated Average Size of Awards: $1,629,640.

Maximum Award: We will reject any application that proposes a budget exceeding $1,700,000 for any single budget period of 12 months.

Estimated Number of Awards: 4.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

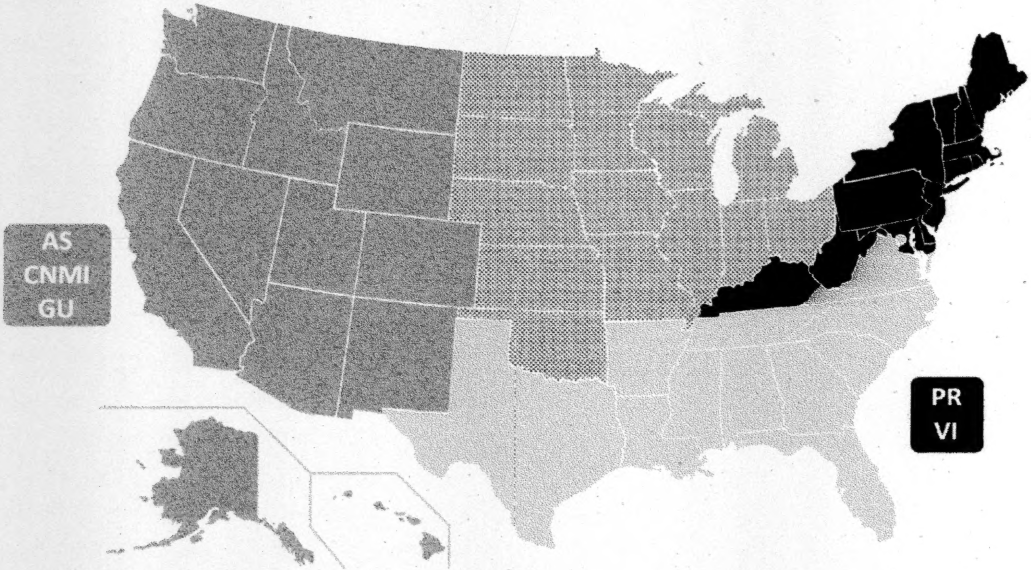
III. Eligibility Information

1. *Eligible Applicants:* A public agency (other than a State educational agency or a school board) or a private, non-profit organization.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Geographical Regions:* Four EACs will be funded under this grant program in four geographical regions, in accordance with 34 CFR 270.5. One award will be made in each region to the highest ranking proposal from that region. Eligible applicants need not be located in the geographic region for which they choose to apply. If an applicant wishes to apply to serve more than one region, such an applicant must submit an application for each region it wishes to serve.

The geographic regions served by the EACs are:



Region I: Connecticut, Delaware, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virgin Islands, West Virginia.

Region II: Alabama, Arkansas, District of Columbia, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, Virginia.

Region III: Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Wisconsin.

Region IV: Alaska, American Samoa, Arizona, California, Colorado, Commonwealth of the Northern Mariana Islands, Guam, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming.

IV. Application and Submission Information

1. *Address to Request Application Package:* Britt Jung, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E206, Washington, DC 20202–6132. Telephone: (202) 205–4513 or by email: *Britt.Jung@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the program contact person listed in this section.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We encourage you to limit the narrative to no more than 50 pages and suggest that you use the following standards:

- A "page" is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The optional supplemental narrative is where you, the applicant, may address the competitive preference priority. Our reviewers will only score the competitive preference priority if you submit the optional supplemental narrative. We suggest that you limit the optional supplemental narrative to no more than three pages using the formatting standards previously identified.

The suggested page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, the optional supplemental narrative to address the competitive preference priority, or the letters of support. However, the suggested page limit does apply to all of the application narrative.

3. *Submission Dates and Times:*
Applications Available: July 18, 2016.
Deadline for Transmittal of Applications: August 22, 2016.

Applications for grants under this program must be submitted electronically using the *Grants.gov* Apply site (*Grants.gov*). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to *Other Submission Requirements* in section IV of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. However, under 34 CFR 79.8(a), we waive intergovernmental review in order to make awards by the end of FY 2016.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section in this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet at the following Web site: *http://fedgov.dnb.com/webform.* A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 2–5 weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data you enter into the SAM database. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, it may be 24 to 48 hours before you can access the information in, and submit an application through, *Grants.gov.*

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration on an annual basis. This may take three or more business days to complete.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a *SAM.gov* Tip Sheet, which you can find at: *http://www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via *Grants.gov,* you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with *Grants.gov* as an AOR. Details on these steps are outlined in the *Grants.gov* Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under this program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.* Applications for grants under the EAC program, CFDA number 84.004D, must be submitted electronically using the Governmentwide *Grants.gov* Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the EAC program at *www.Grants.gov.* You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.004, not 84.004D).

Please note the following:

- When you enter the *Grants.gov* site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by *Grants.gov* are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the *Grants.gov* system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the *Grants.gov* system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from *Grants.gov,* we will notify you if we are rejecting your application because it was date and time stamped by the *Grants.gov* system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through *Grants.gov.*
- You should review and follow the Education Submission Procedures for submitting an application through *Grants.gov* that are included in the application package for this program to ensure that you submit your application in a timely manner to the *Grants.gov* system. You can also find the Education Submission Procedures pertaining to *Grants.gov* under News and Events on the Department's G5 system home page at *http://www.G5.gov.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.

- You must upload any narrative sections and all other attachments to your application as files in a read-only, non-modifiable Portable Document Format (PDF). Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF (*e.g.*, Word, Excel, WordPerfect, etc.) or submit a password-protected file, we will not review that material. Please note that this could result in your application not being considered for funding because the material in question—for example, the project narrative—is critical to a meaningful review of your proposal. For that reason it is important to allow yourself adequate time to upload all material as PDF files. The Department will not convert material from other formats to PDF.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from *Grants.gov* an automatic notification of receipt that contains a *Grants.gov* tracking number. (This notification indicates receipt by *Grants.gov* only, not receipt by the Department.) *Grants.gov* will also notify you automatically by email if your application met all the *Grants.gov* validation requirements or if there were any errors (such as submission of your application by someone other than a registered Authorized Organization Representative, or inclusion of an attachment with a file name that contains special characters). You will be given an opportunity to correct any errors and resubmit, but you must still meet the deadline for submission of applications.

Once your application is successfully validated by *Grants.gov*, the Department will retrieve your application from *Grants.gov* and send you an email with a unique PR/Award number for your application.

These emails do not mean that your application is without any disqualifying errors. While your application may have been successfully validated by *Grants.gov*, it must also meet the Department's application requirements as specified in this notice and in the application instructions. Disqualifying errors could include, for instance, failure to upload attachments in a read-only, non-modifiable PDF; failure to submit a required part of the application; or failure to meet applicant eligibility requirements. It is your responsibility to ensure that your submitted application has met all of the Department's requirements.

- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through *Grants.gov*, please contact the *Grants.gov* Support Desk, toll free, at 1–800–518–4726. You must obtain a *Grants.gov* Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the *Grants.gov* system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with *Grants.gov*, along with the *Grants.gov* Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the *Grants.gov* system and that the problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after we determine whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the *Grants.gov* system. We will not grant you an extension if you failed to fully register to submit your application to *Grants.gov* before the application deadline date and time or if the technical problem you experienced is unrelated to the *Grants.gov* system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the *Grants.gov* system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the *Grants.gov* system; and
- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Britt Jung, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E206, Washington, DC 20202–6135. FAX: (202) 205–0310.

Your paper application must be submitted in accordance with the mail or hand-delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.004D), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

We will not consider applications postmarked after the deadline date.

c. Submission of Paper Applications by Hand Delivery.

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: CFDA Number 84.004D, 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from section 75.210 of EDGAR. The maximum score for addressing all of these criteria is 100 points (not including competitive preference priority points). The maximum score for addressing each criterion is indicated in parentheses. The Secretary uses the following criteria to evaluate applications for EAC grants:

(a) *Significance.* (Up to 5 points) The Secretary considers the significance of the proposed project. In determining the significance of the proposed project, the Secretary considers the extent to which the proposed project is likely to build local capacity to provide, improve, or expand services that address the needs of the target population.

(b) *Quality of Project Services.* (Up to 20 points) The Secretary considers the quality of the services to be provided by the proposed project. In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. In addition, the Secretary considers the following factors:

(1) The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services. (Up to 10 points)

(2) The extent to which the technical assistance services to be provided by the proposed project involve the use of efficient strategies, including the use of technology, as appropriate, and the leveraging of non-project resources. (Up to 5 points)

(3) The extent to which the results of the proposed project are to be disseminated in ways that will enable others to use the information or strategies. (Up to 5 points)

(c) *Quality of Project Design.* (Up to 30 points) The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(1) The extent to which there is a conceptual framework underlying the proposed research or demonstration activities and the quality of that framework. (Up to 10 points)

(2) The extent to which the design of the proposed project includes a thorough, high-quality review of the relevant literature, a high-quality plan for project implementation, and the use of appropriate methodological tools to ensure successful achievement of project objectives. (Up to 10 points)

(3) The extent to which the proposed project represents an exceptional approach for meeting statutory purposes and requirements. (Up to 10 points)

(d) *Quality of Project Personnel.* (Up to 15 points) The Secretary considers the quality of project personnel. In determining the quality of project personnel, the Secretary considers the qualifications, including relevant training and experience, of key project personnel.

(e) *Adequacy of Resources.* (Up to 15 points) The Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers the extent to which the costs are reasonable in relation to the number of persons to be served and to the anticipated results and benefits.

(f) *Quality of the Project Evaluation.* (Up to 15 points) The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the following factors:

(1) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measureable. (Up to 10 points)

(2) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes. (Up to 5 points)

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Risk Assessment and Special Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this program the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose special conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package

and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

(c) The Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

4. *Performance Measures:* The Department has established the following Government Performance and Results Act of 1993 performance measures for the EAC program, adapted from a set of common measures developed to help assess performance across the Department's technical assistance programs:

Measure 1: The percentage of customers reporting an increase in awareness and/or knowledge resulting from technical assistance provided.

Measure 2: The percentage of customers who report changed policies or practices related to providing students with a full opportunity for participation in all educational programs regardless of their sex, race, religion, and national origin.

Measure 3: The percentage of customers reporting an increase in capacity resulting from technical assistance provided.

All grantees will be expected to submit, as part of their annual and final performance reports, quantitative data documenting their progress with regard to these performance measures.

Project Measures: The Department has established the following project measures for the EAC program:

Measure 1: The percentage of technical assistance requests received from organizations that were accepted during the performance period.

Measure 2: The percentage of technical assistance requests received from new (not previously served by the EAC) organizations during the performance period.

Measure 3: The percentage of customers willing to request additional technical assistance and/or refer another organization to an EAC for technical assistance during the performance period.

All grantees will be expected to submit, as part of their annual and final performance reports, quantitative data documenting their progress with regard to these project measures. An applicant may propose additional project measures specific to that applicant's proposed project. If an applicant chooses to propose such project measures, the application must provide the following information as directed under 34 CFR 75.110(b): How each proposed project measure would accurately measure the performance of the project and how the proposed project measure would be consistent with the performance measures established for this program.

5. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Britt Jung, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E206, Washington, DC 20202–6135. Telephone: (202) 205–4513 or by email: *britt.jung@ed.gov.*

If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or PDF. To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: July 12, 2016.

Ann Whalen,

Senior Advisor to the Secretary Delegated the Duties of Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2016–16809 Filed 7–15–16; 8:45 am]

BILLING CODE 4000–01–P

Reader Aids

Federal Register

Vol. 81, No. 137

Monday, July 18, 2016

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.fdsys.gov.**

Federal Register information and research tools, including Public Inspection List, indexes, and Code of Federal Regulations are located at: **www.ofr.gov.**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

FEDERAL REGISTER PAGES AND DATE, JULY

42983–43462	1
43463–43926	5
43927–44206	6
44207–44488	7
44489–44758	8
44759–44980	11
44981–45224	12
45225–45386	13
45387–45962	14
45963–46566	15
46567–46826	18

CFR PARTS AFFECTED DURING JULY

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:	
9466	44127
9467	45385
Executive Orders:	
13732	44485

6 CFR

27	42987

7 CFR

2	45963
319	45387
925	44759
932	46567
989	44761
1590	43006
1942	43927
Proposed Rules:	
319	44801
981	46616
1220	45984
1260	45984

8 CFR

270	42987
274a	42987
280	42987

9 CFR

309	46570
327	45225
Proposed Rules:	
93	46619
94	43115, 46619
95	46619
96	46619
98	46619

10 CFR

2	43019
13	43019
171	45963
429	43404, 45387, 46768
430	43404, 45387, 46768
Proposed Rules:	
20	43959

12 CFR

19	43021
109	43021
1002	44764
1209	43028
1217	43031
1250	43028
Proposed Rules:	
1016	44801
1232	43530

14 CFR

1	43463
11	43463
13	43463
23	43469, 45965
25	43471, 45405, 45968
39	43037, 43472, 43475, 43479, 43481, 43483, 44207, 44489, 44492, 44494, 44496, 44499, 44503, 44981, 44983, 44987, 44990, 44994, 44996
71	43038, 45407
97	44765, 44767
121	43463
125	43463
135	43463
382	43463
406	43463
1214	43040
Proposed Rules:	
39	43120, 43122, 44232, 44235, 44238, 44241, 44244, 44246, 44812, 45070, 45072, 45075, 45992, 45995, 45997, 46000, 46002
71	43124
139	45872

15 CFR

730	44770
736	44770
738	44770
746	44770
Proposed Rules:	
801	43126

17 CFR

201	43042
232	43047
Proposed Rules:	
229	43130
230	43130
240	43130
275	43530

18 CFR

39	44998
250	43937
385	43937
Proposed Rules:	
375	43557
388	43557

19 CFR

Proposed Rules:	
102	44555
149	43961

20 CFR

404	43048
655	43430
702	43430
725	43430
726	43430

Proposed Rules:

404	45079
405	45079
416	45079

21 CFR

1	45912
14	45409
20	45409
101	43061
172	46578
876	45229
882	44771

Proposed Rules:

1	43155
1005	43155
1271	43155

24 CFR

Proposed Rules:

982	44100

25 CFR

575	43941

26 CFR

1	44508, 45008, 46582
301	43488, 45012, 45409
602	45008, 45012

Proposed Rules:

1	43567, 44557, 45088, 46004
301	44557

27 CFR

16	43062

28 CFR

0	43065
11	43942
94	44515

Proposed Rules:

32	46019

29 CFR

5	43430
500	43430
501	43430
503	42983
530	43430
570	43430
578	43430
579	43430
801	43430
825	43430
1902	43430
1903	43430
2550	44773, 44784
2560	43430
2575	43430
2590	43430
4022	45969

30 CFR

100	43430
250	46478
254	46478
550	43066, 46478, 46599
553	43066
556	46599
723	44535
724	44535
845	44535
846	44535
1202	43338
1206	43338

Proposed Rules:

914	45425
916	45426

31 CFR

356	43069
501	43071
535	43071
536	43071
537	43071
538	43071
539	43071
541	43071
542	43071
543	43071
544	43071
546	43071
547	43071
548	43071
549	43071
560	43071
561	43071
566	43071
576	43071
588	43071
592	43071
593	43071
594	43071
595	43071
597	43071
598	43071

32 CFR

706	43077

33 CFR

27	42987
97	45012
100	43079, 43488, 43947, 45013, 45015, 45018
117	43947, 44541, 45018, 45020, 45232, 45971, 46599
147	43947, 45018
160	45012
165	43079, 43085, 43087, 43089, 43947, 44209, 45018, 45022, 45414, 45972, 46600, 46601

Proposed Rules:

100	44815
110	45428, 46026
164	44817
165	43178, 44825

34 CFR

Ch. II	46817
270	46808
271	46808
272	46808

Proposed Rules:

200	44928, 44958

36 CFR

2	45024
1235	45249
1236	45249
1237	45249

38 CFR

17	46601, 46603
38	44792

Proposed Rules:

38	44827

39 CFR

Proposed Rules:

111	43965

40 CFR

Ch. I	43492
9	45416
19	43091
52	43096, 43490, 43894, 44210, 44542, 44795, 45417, 45419, 45421, 46606, 46608, 46612
60	43950, 44212, 45232
63	45232
81	44210, 45039
180	43097
228	44220
721	44797, 45416
1065	43101

Proposed Rules:

51	43180
52	43180, 43568, 44830, 44831, 45428, 45438, 45447
63	45089
131	46030
228	45262

41 CFR

50–201	43430

42 CFR

8	44712
88	43510
401	44456

Proposed Rules:

8	44576
401	43790
405	43790, 46162
409	43714
410	46162
411	46162
414	46162
416	45604
417	46162
419	45604
422	43790, 46162
423	43790, 46162
424	46162
425	46162
460	46162
478	43790
482	45604
484	43714
486	45604
488	45604
495	45604

44 CFR

Proposed Rules:

67	43568

45 CFR

92	46613

Proposed Rules:

75	45270

46 CFR

1	43950, 44230
10	43950, 44230
11	43950, 44230
12	43950, 44230
13	43950, 44230
14	44230
15	43950, 44230
97	45012

Proposed Rules:

Ch. I	46042

47 CFR

Ch. I	43956
1	43523, 44414
4	45055
54	44414, 45973
73	43101, 43955, 44231

Proposed Rules:

4	45095
54	45447

48 CFR

Ch. 1	45832, 45868
1	45833
2	45833, 45852
4	45866
8	45854
15	45833, 45852
16	45852
19	45833
31	45852
42	45852
52	45833, 45852, 45856
53	45855
538	43956
552	43956
902	45974
909	45974
916	45974
917	45974
923	45974
925	45974
931	45974
936	45974
942	45974
952	45974
970	45974

Proposed Rules:

915	43971
934	43971
942	43971
944	43971
945	43971
952	43971
1032	45118
1052	45118

49 CFR

8	45979
209	43101, 43105
213	43105
214	43105
215	43105
216	43105
217	43105
218	43105
219	43105
220	43105
221	43105
222	43105
223	43105
224	43105
225	43105
227	43105
228	43105
229	43105
230	43105
231	43105
232	43105
233	43105
234	43105
235	43105
236	43105
237	43105

238.....43105
239.....43105
240.....43105
241.....43105
242.....43105
243.....43105
244.....43105
272.....43105
392.....43957
578.....43524
1503.....42987

50 CFR

300.....45982, 46614
622.....45068, 45245
635.....44798
648.....43957, 46615
679.....45423

Proposed Rules:

17.....43972
32.....45790
223.....43979
224.....43979
665.....44249
679.....44251

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List July 8, 2016

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.